Supreme Court, U.S.
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(1)

No.

IN THE

Supreme Court of the United States

Annare L (Pala) Loubser,
Petitioner

v.

Alexander R. Pala
Respondent

On Petition For Writ Of Certiorari
To The Indiana Court Of Appeals

PETITION FOR WRIT OF CERTIORARI

ANNARE L. (Pala) LOUBSER
1415 N Main Street,
Monticello, IN 47960
574-583-9950

August 14, 2006

QUESTIONS PRESENTED

1. Whether the Court below properly concluded that a judgment procured through judicial bias and partiality is not *void ab initio* for violation of due process and equal protection clause of the fourteenth amendment, because it was not raised in reasonable time?

PARTIES TO PROCEEDING

Annare L. (Pala) Loubser referred to as Loubser.
Alexander R. Pala referred to as Pala.

DISCLOSURE STATEMENT

Annaré L Loubser, Petitioner, Pro Se hereby discloses Pursuant to Rule 29.6 she owns a corporation in Indiana of which she is the sole owner and there is no parent company and it is not publicly held.

TABLE OF CONTENTS

PAGE

QUESTIONS PRESENTED FOR REVIEW.....i

PARTIES TO THE PROCEEDING.....ii

DISCLOSURE STATEMENT.....iii

TABLE OF CITED AUTHORITIES.....iii-vi

OPNIONS BELOW.....1

JURISDICTION.....1

CONSTITUTIONAL AND LEGAL PROVISIONS INVOLVED.....1, 2

STATEMENT.....2-10

REASONS FOR GRANTING THE WRIT.....10-20

I. JUDGMENT IN DENIAL OF DUE PROCESS IS *VOID AB INITIO* AND RELIEF THEREOF CAN BE SOUGHT ANY TIME.....10

II. JUDGEMENT IN DENIAL OF EQUAL PROTECTION IS *VOID AB INITION* AND RELIEF CAN BE SOUGTH ANY TIME.....16

III. INDIANA JUDICIAL CODE OF CONDUCT.....19

CONCLUSION.....21

STATUATORY APPENDIX.....21-27

TABLE OF AUTHORITIES

CASES:

Adickes v. S. H. Kress & Co, 398 U.S. 144, 90 S.Ct. 1598 (U.S.N.Y. 1970).....17

Anderson v. Creighton 483 U.S. 635, 639, 107 S.Ct. 3034, 3039 (U.S.,1987).....15

Berger v. U.S. 255 U.S. 22, 36, 41 S.Ct. 230, 234 (U.S.1921).....10, 11

Board of Trustees of Public Employees' Retirement Fund v. Hill 472 N.E.2d 204 (Ind.,1985).....19

Bracy v. Gramley 520 U.S. 899, 117 S.Ct. 1793 (U.S.Ill.,1997).....10

Brown v. State 684 N.E.2d 529 (Ind.App.,1997).....19

Cooley v. Koetter Woodworking, Inc. 607 N.E.2d 975, 975 (Ind.App. 1 Dist.,1993).....18

DuBose v. Kelly 187 F.3d 999 (C.A.8 (Minn.),1999).....12

Edwards v. Balisok 520 U.S. 641, 117 S.Ct. 1584 (U.S.Wash.,1997).....11,16

Ellis v. Dyson 421 U.S. 426, *442, 95 S.Ct. 1691, **1700 (U.S.Tex. 1975).....16

Ex parte Commonwealth of Virginia 100 U.S. 339, 1879 WL 16561, 1 ,17 (U.S.Va.) (U.S.1879).....15,17

Grunfeld v. Grunfeld 94 N.Y.2d 696, 731 N.E.2d 142, 709 N.Y.S.2d 486 (N.Y.,2000).....13

Hickey's Lessee v. Stewart 44 U.S. 750 (U.S.1845) ... .13,16

In re Morton 770 N.E.2d 827 (Ind.,2002).....19

Indiana High School Athletic Ass'n v. Raike 164 Ind.App. 169, 329 N.E.2d 66 (Ind.App. 1975).....17

Klapprott v. U.S. 335 U.S. 601, 609, 69 S.Ct. 384, 388,389, 390-391(U.S.1949).....14, 15
Lake of the Woods v. Ralston 748 N.E.2d 396 (Ind.App.,2001).....15
Loubser v. Thacker 440 F.3d 439, *443 (C.A.7 (Ind.),2006).....7,12,17,18,20
Montgomery v. Board of Trustees of Purdue University 824 N.E.2d 1278, 1281 (Ind.App.,2005).....15
Moore v. Terre Haute First Nat. Bank 582 N.E.2d 474 (Ind.App. 1 Dist.,1991).....14
Mueller v. State 837 N.E.2d 198 (Ind.App.,2005).....16
Nesses v. Shepard, 68 F.3d 1003, 1005 (7th Cir.1995).....20
Offutt v. U.S. 348 U.S. 11, *14, 75 S.Ct. 11, **13 (U.S. 1954).....18
Osmulski v. Becze 638 N.E.2d 828 (Ind.App. 3 Dist.,1994).....18
Pacurar v. Hernly 611 F.2d 179 (C.A.Ind., 1979).....14
Reilly v. Robertson 266 Ind. 29, 360 N.E.2d 171 (Ind. 1977). 16
Severs v. Severs 426 So.2d 992 (Fla.App. 5 Dist.,1983).....13
Standard Lumber Co. of St. John, Inc. v. Josevski 706 N.E.2d 1092 (Ind.App.,1999).....14
Stidham v. Whelchel 698 N.E.2d 1152 (Ind.,1998).....14
Strauder v. State of West Virginia 100 U.S. 303, 1879 WL 16562, 1 (U.S.W.Va.) (U.S.1879).....17
Tumey v. State of Ohio 273 U.S. 510, 47 S.Ct. 437 ,444, 445(U.S., 1927).....11, 13, 20

U.S. v. Buck 281 F.3d 1336 (C.A.10 (Okla.),2002).....14
U.S. v. Grinnell Corp. 384 U.S. 563, 86 S.Ct. 1698 (U.S.R.I. 1966).....12
U.S. v. Kozminski 487 U.S. 931, 108 S.Ct. 2751 (U.S.Mich.,1988).....12, 17, 18
U.S. v. Sciuto 531 F.2d 842 (C.A.Ill. 1976).....10
World-Wide Volkswagen Corp. v. Woodson 444 U.S. 286, 100 S.Ct. 559 (U.S.Okl.,1980).....14,15

STATE STATUTES

I.C. 31-15-7-4.....4
Code of Jud.Conduct, Canon 2 (A)(B)(C)(D).....2, 19
*Code of Jud.Conduct, Canon 3(A)(B)(1)(2).....*2
*Code of Jud.Conduct, Canon 3(E)(1)(a).....*19
*Code of Jud.Conduct, Canon 4(A)(1)(2)(3).....*2

OTHER AUTHORITIES

*Motion 60 (B)(6).....*14, 16
*Trial Procedure Rule 60(B)(6)(8).....*2,14, 16
*Trial Procedure Rule 60(D).....*2
*Trial Procedure Rule 76.....*18
*Fed.Rules Civ.Proc.Rule 60(b)(4),.....*14
*Fed.Rules Civ.Proc. rule 60(b).....*14

INDIANA CONSTITUTION

*I.C. Const. Art. 1, § 12.....*15
*I.C. Const. art. 1, § 23.....*17

CONSTITUTION AND STATUTES

U.S.C.A. Const.Amend. 14.....10,12, 15, 17
U.S.C.A. Const. Amend. XIII§(1).....13, 15
28 U.S.C. A. § 1257.....1

OPINIONS BELOW

Indiana Supreme Court Denies Appellant Transfer of Jurisdiction to Indiana Supreme Court. June 1, 2006 (Pet. App. 11-12)Opinion of the Indiana Court of Appeals affirming the trial courts denial of Loubser's Motion 60B(6)(8) February 3, 2006.(Pet. App. 1-10)

JURISDICTION

Divorce granted January, 23, 2003 between Annare (Pala) Loubser ("Loubser") and Alexander R Pala ("Pala"). Appellate Court Affirmed judgment November, 6, 2003. The issues where raised by Motion 60(B)(6)(8) for relief of judgment filed by Loubser in the White Circuit Court April 6, 2005. April 11, 2005 Motion for relief of judgment denied without hearing. Loubser file Notice of Appeal April 20, 2005, Indiana Court of Appeals Affirm trial courts denial of Motion (B)(6)(8) for relief of judgment. February, 3, 2006. Petition to transfer to Indiana Supreme Court Filed February, 28, 2006. June 1, 2006, Indiana Supreme Court denies Loubser's petition to transfer jurisdiction to the Indiana Supreme Court. This Court's jurisdiction is invoked under 28 U.S.C.A. § 1257.

CONSTITUTION AND LEGAL PROVISIONS INVOLVED

U.S.C.A. Const.Amend. 14
U.S.C.A. Const. Amend. XIII§(1)
28 U.S.C. A. § 1257
Indiana Const. Art. 1, § 12
Indiana Const. Art. 1, § 23
Code of Jud.Conduct, Canon1
Code of Jud.Conduct, Canon 2 (A)
Code of Jud.Conduct, Canon 2(B)
Code of Jud.Conduct, Canon 2(C)
Code of Jud.Conduct, Canon 2(D)

Code of Jud.Conduct, Canon 3(A)(B)(1)(2)
Code of Jud.Conduct, Canon 3(E)(1)(a)
Code of Jud.Conduct, Canon 4(A)(1)(2)(3)
Indiana Trial Rule 60. Relief from judgment or order B(6)(8)
Indiana Trial Rule 60 D
Indiana Trial Rule 76

STATEMENT

Loubser Graduated in a B.Sc. Physiotherapy degree from University of Stellenbosch in Cape Town South Africa 1989 she was recruited to Mount Pleasant Michigan were she worked for two years and then moved to Monticello, IN November 1, 1991, where she was employed as director of physical therapy of White County Memorial Hospital, Monticello, IN. Loubser met Pala November 1, 1991 the day she moved to Monticello Indiana, and she was introduced to Pala as soon as she got to Indiana with her Ryder Truck by a woman named Terry Cox who took Loubser to Riverside and that is where Loubser met Pala and all his friends. It was a social introduction. (Pet. App. 13 Line 5-12). The couple fell in love (Pet. App. 14 line 1)) as Pala testified and married August 27, 1994.

Loubser was employed at White County Memorial hospital 1991-1995 and then for an orthopedic surgeon eight months in Kokomo Indiana and she was recruited back to her former corporation Industrial Rehabilitation to open Twin Lakes Rehab in Monticello, Indiana (Pet App.p 15). December 1999 Loubser opened her own professional practice, Relieve Therapy Services, Inc. Pala was born an achondroplastic dwarf was employed at a plumbing and hardware store for 20 years as a laborer. Pala's physical condition deteriorated and he had back surgery April 1994 prior to marriage. Because this did not cure his back problem, he became eligible for social security disability benefits, $ 842 per month and $54

deduction for Medicare after the marriage The couple separated August 7, 2001 and the divorce was filed August 14, 2001. Trial court granted decree of dissolution January, 23, 2003 between Annare (Pala) Loubser ("Loubser") and Alexander R Pala ("Pala"). The Trial court valued Loubser's professional practice at $ 150 000. Additionally the trial court awarded 73% of the marital estate to Pala which included $ 80 000 out of her professional business and also awarded Pala maintenance in the amount of $ 1200 per month during the period of Pala'a incapacity Loubser is still paying. The trial court additionally ordered Loubser to maintain health insurance for Alexander for eighteen months after the dissolution and the Trial court ordered Loubser to pay $ 25 000 of Pala's attorney fees and the provisional payments by Loubser of $ 26 033.96 (Pet App. p 16)after a childless marriage of 6 years and 345 days. Appellate Court Affirmed the judgment November, 6, 2003. The issues raised by Motion 60(B)(6)(8) for relief of judgment filed by Loubser in the White Circuit Court April 6, 2005 were : the judgment is: 1) *void ab initio*, Motion 60B(6) 2) extra-judicial scheme to commit fraud of the court, extra-ordinary circumstances, Motion 60B(8) Loubser argued in her Memorandum of law her reasonable delay for filing this motion was she filed it in federal court, Which she was barred from doing under *Rooker- Feldman doctrine,* she only learned on October 8, 2004 (Pet. App. 17) that her attorney Courtney B. Justice and Pala' attorney R. Denns Hoover made a pre-trial agreement not present evidence into the case-in-chief depriving record of a defense. (Pet App. 18 ¶ 5)). Loubser argued that she asked her divorce attorneys Dechert(Loubser's first divorce attorney) and Justice(Loubser's second divorce attorney) for a change of venue from biased judge and the judge held a meeting in his chamber's on May 28, 2002 with Dechert and Hoover, (Pala's divorce attorney) and after that meeting it was determined that Pala will receive 70 % of assets and spousal maintenance and judge

Thacker would not change venue from judge and maintain jurisdiction over Loubser against her request. July 30 , 2002 Dechert threatened Loubser in a settlement meeting between her and Pala, that the only settlement from Hoover and Pala was for Loubser to go back home and live with Pala or Judge Thacker will give everything to Pala, value the business high and she will have to pay Pala half, and he will award a large sum of maintenance to Pala. Judge Thacker then fraudulently altered the tax year of the Sub- chapter S corporation to run from August 1 2001- July 31 2002 (Pet. App. 19)instead of January, 1, 2001 to December, 31, 2001.(Pet.App 20) and that the business had a net earnings of $ 200 000 during the tax year beginning at August 1st. The business was only 20 months old when the marital pot closed August 14, 2001 I.C. 31-15-7-4, net earnings for 2001 was only $141 828. (Pet. App. 20) Loubser argued that bias prejudice and partial against her Judge Thacker manipulated the numbers in favor of Pala, because Loubser was profiled by judge Thacker's friend Terry Smith, as a " fucking South African Bitch who makes too much Fucking money" and therefore they would place her under involuntary servitude to Pala. Loubser argued that she requested a correction of these errors, but instead Justice used the threat of legal coercion a scheme of abuse of law and power if she requested a correction (Pet App. 21). Loubser's attorney Justice threatened that "if you point out errors" the judge will not change it in her direction and that the judge would change his order so Loubser could not appeal it. Loubser argued that judge Thacker's bias and prejudice and partiality against her stems from an extra-judicial source, which Loubser and eye witness who's affidavits she provided witnessed.(Pet. App. 27, 29, 30) Loubser provided pictures of December 31, 2002(Pet. App. 22-23) prior to the January 23, 2003 Decree, Pala's SSA representative and relative(Pet App.24) Candace Roth was engaging in bribe by physical touch to

bias judge Thacker in favor of her relative Pala after she was counseled to do so by Pala'a attorney (Pet.App 24 25-26) on July 7 and 12, 2002 on attorney Hoover's bill. Loubser argued that the judgment was *void ab initio*, because of the partiality bias and prejudice of judge Thacker against her, because Loubser and another eyewitness (Pet App. 27, 28, 29) witnessed Judge Thacker visiting with witness William Roth , father of Jillian Roth friend of judge Thacker's daughter Dana Thacker(Pet. App. 29 ¶ 5) just after he got off the witness stand and was to return to the witness stand after recess. Loubser and the eye witness also witnessed during recess judge Thacker hugged witness for Pala, David Diener, before he testified (Pet.App.27,28). Then judge Thacker and witness David Diener during Diener's testimony judge joked about their golf game in answering a question (Pet. App. 31 Line 2-5). Judge Thacker joked with Pala that since he can't work because he drinks beer all day he should get a job like "Norm on Cheers" this portion was deliberately left out of transcript is on the tape.(Pet. App.32 line 14-17) and was said at trial. Pala looked at judge Thacker on the bench and said " goodbye judge wudgee, I will see you around town" and Judge Thacker and Pala laughed. Loubser provided eyewitness affidavits of this act (Pet. App. 27, 29). Judge Thacker allowed Pala during trial on October 18, 2002, while Loubser's witness was testifying about the value of her business, to walk around in the court room and engage in laughing and joking with Candace Roth (Pet App. 27, 28-29) his relative and SSA representative (Pet. App 24) On Pala's lawyer bill she was counseled by Pala's lawyer (Pet App. 25-26 July 7 and July 12), while Loubser's witnesses were testifying. On December 31, 2003 Candace Roth physically touched Judge Thacker (Pet App. 22-23) to bribe him with physical touch to procure a favorable judgment for her relative Pala. Candace Roths's daughter Jill Roth friends with Dana Thacker's judge Thacker's daughter and Jill Roth related to Pala. Judge Thacker also

based his decision on the standard of living of Loubser on the fact that he saw her "socializing with friends" (Pet. App 33) a fact not testified to in open court. Loubser also argued that Judge Thacker discussed the division of asset with the accountant on the golf course. Judge Thacker's behavior was so partial that in a hearing on December 9 2002 when evidenced surfaced that Pala was capable of physical manual labor, judge Thacker said." The facts are as they were on whatever the day of the final hearing was concluded and that is that." (Pet App. p 35 line 14-17) Judge Thacker whose daughter Dana was close friends with Pala'a SSA representative and relative Candace Roth's daughter Jillian Roth. (Pet App.p, 29 ¶ 5) Judge Thacker determined in spite of evidence that Pala can perform physical manual labor that Pala need spousal maintenance and uneven distribution of the assets, the evidence that Pala was not physically incapacitated was not weighed as partial judge Thacker himself said' "the facts are as they were on whatever the day of the final hearing was concluded and that's, you know that's all there is to it." (Pet. App. 35 line 14-17) He was angry that this evidence surfaced and refused to weigh it so that he could grant what he agreed to and that was that Pala needs $ 1200/ month otherwise he would have to live in a smaller home and drastically change his living expenses and socializing,(Pet. App. 36) with Candace Roth mother of judge Thacker's daughter's Dana's friend Jillian Roth (Pet App. 29 ¶ 5) Judge Thacker stated that Loubser has college education and practice her trade and the wifes' earnings ability should grant Pala uneven distribution of the assets and spousal support. Therefore the partial judge find that he is capable of part time work, but also physically incapacitated. (Pet. App. 36, 37) and because of his bias and partiality ignores as he said he would all evidence that show that Pala was not physically incapacitated. This finding of incapacity was based on

medical evidence, Loubser argued in her brief the only medical evidence before the court was the deposition of Loubser's medical expert that showed that Pala was not Physically incapacitated and she argues that Pala's medical expert testimony was not filed in the court till April 23, 2003(Pet. App. 38), after Loubser inquired about it for her appeal, three months after the decree of January, 23, 2003(Pet. App 38). Therefore the evidence before partial and bias judge Thacker was ignored and his medical findings of incapacity was made based on partiality. Loubser argued that the weight of the evidence and the parties is what is crucially affected in tribunal, partial bias and prejudice against her, and all remedies on appeal are inadequate, because the Court of Appeals assumes it was the product of due process by impartial tribunal. Loubser argued that she attempted to timely file this motion, but due to an extra-judicial scheme between her attorney, Justice and Pala's attorney Hoover and Judge Thacker and her appellate attorney Stone and several other individuals they refused to raise this issue as early as December 9, 2002(Pet. App. 17) and January 8, 2002, because it would have disturbed the pre-determined judgment of May 28, 2002 in judge Thacker's chambers it was of no fault of her own that she did not raise the issue earlier. Loubser did not learn about this pre- trial arrangements to take a default in her case till October 8, 2004 and on October 14, 2004 she filed a 42 USCA § 1983 and 1985(1)(2)(3) and 1994 for conspiracy for its" purpose-to deprive the plaintiff of her property and livelihood by corrupting her divorce proceeding" *Loubser v. Thacker* 440 F.3d 439, *443 (C.A.7 (Ind.),2006). April 11, 2005 Motion for relief of judgment denied without hearing. The court stating motion was untimely, fails to satisfy Trial Rule 60 and fails on the merits.(Pet. App 34) Loubser filed Notice of Appeal April 20, 2005. Loubser raised the issues before the Indiana Court of Appeals, 1) Did the trial court err in denying Loubser's Motion 60(B)(6)(8) without a due

process hearing Pursuant to Indiana Trial Rule 60(D). 2) Did the trial court err in dismissing Loubser's Motion 60(B)(6)(8) for untimely filing the motion. 3) Did the trial court err in dismissing the motion for failure to satisfy Trial rule 60? 4)Is this judgment procured through a fraudulent scheme by attorneys to prevent Loubser from fully and fairly litigating her case, void? 5) Does a fraudulent scheme to conceal Pala's assets so that he can obtain financial rewards constitute fraud upon the court to render the judgments void? 6) Is an unconstitutionally procured judgment in violation of the fourteenth amendment *void ab initio*? 7) Is a judgment rendered by a judge who is close personal friends and engage in physical touch prior to rendering his judgment, and a judge engaging in *ex parte communications,* allows Pala to walk around in the court room and laugh with Pala's relative and SSA Representative Candace Roth, *void ab initio*? for violation of the fourteenth amendment due to abandonment of impartiality. 8) Is it due process of law by an impartial tribunal in the State of Indiana if a judge hugs a witness before he testifies and visits with a witness during his testimony at recess.? 9) Is a judgment in violation of the equal protection clause of the Fourteenth amendment void if it discriminated based on age and disability? Pala argues 1) Wife's brief should have all of it's impertinent, intemperate, scandalous or vituperative language stricken. 2) The trial court was within its discretion in denying Wife's T.R. 60 motion without a hearing. A,). Relief sought was not within one year B.) the savings clause in T.R. 60 affords no permission to challenge the divorce decree. C.) No hearing was required on T.R. 60 motion when on it's face, there was unreasonable delay or that the issues could have been raised on direct appeal. Indiana Court of Appeals affirmed the trial courts denial of Motion (B)(6)(8) for relief of judgment. February, 3, 2006, holding that "Given the documentary evidence submitted by Loubser in support of her motion offers no indication that any fraudulent

conduct occurred and her claims for judicial bias were not raised within a reasonable time, we conclude that the trial court did not err when it failed to hold a hearing on her Trial Rule 60(B) motion. The Indiana Court of Appeals cited no authority in support of their argument that Loubser did not file her Motion 60(B)(6) for void judgment in reasonable time. The Indiana Court of Appeals did not find that the judge was not partial, only that the motion (B)(6) for void judgment because judicial partiality and bias was untimely filed without any authority. Loubser filed Petition to transfer Jurisdiction to the Supreme Court of Indiana On February 28, 2006 and presented the following questions: 1.) The Court of Appeals has decided an important federal question in a way that conflicts with decisions of the United States Supreme Court and the United States Court of Appeals and the Public Interest and confidence in the integrity and independence of judges. The Indiana Supreme Court is thus called upon to determine if this judgment procured in a partial tribunal in violation of the due process clause of the Fourteenth Amendment should be *void ab initio* and not be time barred? 2) The question of law is, are parties, and counsel who engage in an unconscionable scheme with each other and with a judge to prevent or omit a defense in an action by representations and promises, purposefully depriving the record of evidence conceal assets in agreement to take a default in a case where they know there is a defense, and to ultimately "fix" a state case guilty of fraud of the court and should the judgment so obtained be set aside? 3) Is an unconscionable scheme to keep a litigant under the jurisdiction of a racially prejudiced judge in violation of the equal protection clause the fourteenth amendment?

Pala argued 1.) Is the fact that Judge Thacker knew some of the witnesses at final hearing sufficient evidence that the was unduly prejudiced against Loubser? 2.) Loubser's

second argument is a claim of extrinsic fraud by everyone involved in her divorce trial. 3.) Loubser's third ground for transfer is a broad claim if a Fourteenth amendment violation. Loubser's Petition to the transfer jurisdiction to the Indiana Supreme Court was Denied on June 1, 2006. The Indiana State Court of last resort have determined an important federal law question in a way that conflicts with relevant decisions of this Court.

REASONS FOR GRANTING WRIT

I. JUDGMENT IN DENIAL OF DUE PROCESS IS *VOID AB INITIO* AND RELIEF THEREOF CAN BE SOUGHT ANY TIME.

The Indiana Court of Appeals has decided an important federal question in a way that conflicts with decisions of the United States Supreme Court and the United States Court of Appeals and the opinions of the Supreme court of Indiana. The decision conflicts with Public Interest and confidence in the integrity and independence of judges. The "Constitutional floor established by Due Process Clause of Fourteenth Amendment requires fair trial in fair tribunal before judge with no actual bias against defendant or interest in outcome of his particular case. " *U.S.C.A. Const.Amend.* 14. *Bracy v. Gramley* 520 U.S. 899, 117 S.Ct. 1793 (U.S.Ill.,1997). Seventh Circuit held that "The right to a tribunal free from bias or prejudice is based, not on statute governing disqualification of a judge for bias and prejudice, but on due process clause." *U.S. v. Sciuto* 531 F.2d 842 (C.A.Ill. 1976) The due process clause of the Fourteenth amendment guarantees a litigant that "the tribunals of the country shall not only be impartial in the controversies submitted to them but shall give assurance that they are impartial, free, to use the words of the section, from any 'bias or prejudice' that might disturb the normal course of impartial judgment. " *Berger v. U.S.*

255 U.S. 22, 36, 41 S.Ct. 230, 234 (U.S.1921) Loubser had to commit to a partial judge this Court held that:

> " to commit to a partial judge a decision upon the truth of the facts gives chance for the evil against which the section on disqualification is directed. The remedy by appeal is inadequate. It comes after the trial and if prejudice exist it has worked its evil and a judgment of it in a reviewing tribunal is precarious. It goes there fortified by presumptions, and nothing can be more elusive of estimate or decision than a disposition of a mind in which there is a personal ingredient." *Berger v. U.S.* 255 U.S. 22, 36, 41 S.Ct. 230, 234 (U.S.1921).

Partial judge Thacker had a personal interest in the outcome of Pala's trial, he had no lawful right to preside over this case, as the *Berger* Court's holding that judge Landis could not preside over the case. The *Berger* Court made it clear that a litigant has no remedy by appeal for the reviewing court does not reweigh evidence nor does it credit the witnesses, which is clear in judge Thacker's own comment that he would ignore the evidence that impeached Pala's and Pala's witnesses testimony that Pala was incapacitated "Subjecting liberty and property of defendant to court, judge of which has direct, substantial, pecuniary interest against him, is denial of due process." *Tumey v. State of Ohio* 273 U.S. 510, 47 S.Ct. 437 (U.S., 1927). Judge Thacker also has an interest to deprive Lousber of her livelihood, on behalf of his friends. A defendant or respondent" tried by a partial judge "is entitled to have the judgment against him" set aside, no matter how strong the evidence against him." *Edwards v. Balisok*, 520 U.S. 641, 117 S.Ct. 1584 (U.S.Wash.,1997). (Pet App 22-29) Clear evidence of judge Thacker being bribed by physical touch by Candace Roth relative and SSA representative of Pala(Pet. App 24), provided by Loubser. (Pet. App 22-23) that Judge Thacker's alleged bias and prejudice, that claimed to disqualify judge,

stemmed from an "extrajudicial source" *U.S. v. Grinnell Corp.* 384 U.S. 563, 86 S.Ct. 1698 (U.S.R.I. 1966). The Indiana Court of Appeals in it's opinion did not deny that evidence of judicial bias existed, only that the Loubser filed the motion 60 (B)(6) for void judgment due to biased judge untimely and not in 'reasonable time". Judge Thacker's bias that stemmed from an"extra-judicial source" resulted in an opinion on the merits on some basis other than what the judge learned from his participation in the case, he said " both parties continue to socialize with friends (Pet. App. 33) division of assets was determined by what Judge Thacker learned outside the court room. Medical evidence testimony in favor of Pala's alleged incapacity was submitted April 23, 2003 judgment rendered January 23, 2003. The judge only had Loubser's medical evidence before him that determined Pala was not physically incapacitated. The tax year of her corporation was altered to included extra- marital assets and when she requested a correction she was threaten with " threat of coercion through law or legal process" *U.S. v. Kozminski* 487 U.S. 931, 108 S.Ct. 2751 (U.S.Mich.,1988) and "psychological coercion" *U.S. v. Kozminski* 487 U.S. 931, 108 S.Ct. 2751 (U.S.Mich.,1988). Loubser attorney Justice threatened her if she attempted to upset judgment that was pre-determined May 28, 2002 in Judge Thacker's chambers. A judgment that could not have been procured on the facts if the correct tax year was used. These attorneys agreed to "fix" the state case to deprive Loubser of her" right to due process." U.S.C.A. Const.Amend. 14; *DuBose v. Kelly* 187 F.3d 999 (C.A.8 (Minn.),1999) Loubser was also threatened that she had to move back with Pala otherwise she would suffer legal consequences such as deprivation of her "of her property and livelihood by corrupting her divorce proceeding" *Loubser v. Thacker* 440 F.3d 439, *443 (C.A.7 (Ind.),2006) This is exactly what judge Thacker did when Loubser did not comply with this threat he valued her business, gave Pala

$ 80 000, 73 % of assets of which 68 % was procured through Loubser's profession. Loubser's specific stream of income her professional practice was converted into an asset $ 150 000 and then biased judge Thacker awarded $ 1200 of that income per month to Pala. "That income may no longer be calculated into the maintenance formula and payout. " *Grunfeld v. Grunfeld* 94 N.Y.2d 696, 731 N.E.2d 142, 709 N.Y.S.2d 486 (N.Y.,2000), to provide Pala with a vested interest in Loubser's education and professional productivity, so that that" award would transmute the bonds of marriage into the bonds of involuntary servitude. U.S.C.A. Const.Amend. 13" *Severs v. Severs* 426 So.2d 992 (Fla.App. 5 Dist.,1983). Subjecting liberty and property of defendant to court, judge of which has direct, substantial, pecuniary interest against him, is denial of due process. " *Tumey v. State of Ohio* 273 U.S. 510, 47 S.Ct. 437 (U.S., 1927). Judge Thacker had an interest in depriving Lousber of her livelihood, on behalf of his friends Pala and Candace Roth. The judgment by partial judge is void and relief can be sought anytime." If court acts without authority, its judgments and orders are regarded as nullities and for no bar to a recovery." *Hickey's Lessee v. Stewart* 44 U.S. 750 (U.S.1845) . "Every procedure which would offer a possible temptation to the average man as a judge which might lead him not to hold the balance nice, clear, and true between the state and the a litigant "denies the latter due process of law." *Tumey v. State of Ohio* 273 U.S. 510, 532, 47 S.Ct. 437, 444 (U.S., 1927) No matter what the evidence was before judge Thacker Loubser had the "right to have an impartial judge" *Tumey v. State of Ohio* 273 U.S. 510, 535, 47 S.Ct. 437, 445 (U.S., 1927). Pursuant to "binding "authority of the United States Supreme Court" the judgment by bias judge Thacker is

void ab initio because it was in violation of due process." Judgment rendered in violation of due process is void "*World-Wide Volkswagen Corp. v. Woodson* 444 U.S. 286, 100 S.Ct. 559 (U.S.Okl.,1980)" The Indiana Court of Appeals is in Conflict with the Indiana Supreme Court in it's holding that "Void judgment" is one that, from its inception, is a complete nullity and without legal effect. " *Stidham v. Whelchel* 698 N.E.2d 1152 (Ind.,1998), "whether from faulty process or otherwise, claimant seeking relief from judgment need not show meritorious defense or claim." *Moore v. Terre Haute First Nat. Bank* 582 N.E.2d 474 (Ind.App. 1 Dist.,1991)" A judgment is void if the parties, "acted in a manner inconsistent with due process of law." Fed.Rules Civ.Proc.Rule 60(b)(4). " *Indiana Motion 60 (B)(6)*. A motion for relief on the ground that the judgment is void may be made at any time." *U.S. v. Buck* 281 F.3d 1336 (C.A.10 (Okla.),2002). "Amended Rule 60(b) authorizes a court to set aside 'a void judgment' without regard to the limitation of a year applicable to motions to set aside on some other grounds. " *Klapprott v. U.S.* 335 U.S. 601, 609, 69 S.Ct. 384, 388 (U.S.1949), *Standard Lumber Co. of St. John, Inc. v. Josevski* 706 N.E.2d1092 (Ind.App.,1999). A void judgment is a"legal nullity" that may be vacated by court which rendered it at any time." Fed.Rules Civ.Proc. Rule 60(b)(4), 28 U.S.C.A. *Pacurar v. Hernly* 611 F.2d 179 (C.A.Ind., 1979)"Professor Moore points out that, as applied to a motion for relief from a void judgment under Rule 60(b)(4), the "reasonable time" limitation in Rule 60(b) "must generally mean no time limit," *Pacurar v. Hernly* 611 F.2d 179, *181 (C.A.Ind., 1979) "For example, the right to due process of law is quite clearly established by the Due Process Clause, and thus there is a sense in which

any action that violates that Clause (no matter how unclear it may be that the particular action is a violation) violates a clearly established right. *Anderson v. Creighton* 483 U.S. 635, 639, 107 S.Ct. 3034, 3039 (U.S.,1987). The 13th and 14th amendments, are limitations of the power of the states and enlargements of the powers of Congress. *Ex parte Commonwealth of Virginia* 100 U.S. 339, 1879 WL 16561, 1 (U.S.Va.) (U.S.1879) "Federal due process clause and state due course of law clause prohibit state action which deprives a person of life, liberty, or property without the process or course of law that is due, that is, a fair proceeding. *U.S.C.A. Const.Amend.* 14; West's A.*I.C. Const. Art. 1, § 12.*" *Lake of the Woods v. Ralston* 748 N.E.2d 396 (Ind.App.,2001)Section 1 of the Fourteenth Amendment provides in relevant part, No State "deny to any person within its jurisdiction the equal protection of the laws." Section 5 of the Fourteenth Amendment provides, "The Congress shall have power to enforce, by appropriate legislation, the provisions of this article." *Montgomery v. Board of Trustees of Purdue University* 824 N.E.2d 1278, 1281 (Ind.App.,2005) The Indiana Court of Appeals ruling that Loubser did not raise the issue that a judgment by a partial and biased judge, at no fault of her own was not raised in "reasonable time" is in conflict with this Court's authority that a judgment in a bias tribunal is a " rendered in violation of due process is void "*World-Wide Volkswagen Corp. v. Woodson* 444 U.S. 286, 100 S.Ct. 559 (U.S.Okl.,1980)" "Amended Rule 60(b) authorizes a court to set aside 'a void judgment' without regard to the limitation of a year applicable to motions to set aside on some other grounds. " *Klapprott v. U.S.* 335 U.S. 601, 609, 69 S.Ct. 384, 388 (U.S.1949)

Loubser " tried by a partial judge "is entitled to have the judgment against her" set aside." *Edwards v. Balisok* 520 U.S. 641, 117 S.Ct. 1584 (U.S.Wash.,1997). "The general principle that final judgments have res judicata effect and are binding on the parties is, of course, subject to the qualification that void judgments may be collaterally impeached. "*Ellis v. Dyson* 421 U.S. 426, *442, 95 S.Ct. 1691, **1700 (U.S.Tex. 1975). "If court acts without authority, its judgments and orders are regarded as nullities and for no bar to a recovery." *Hickey's Lessee v. Stewart* 44 U.S. 750 (U.S.1845) . Therefore this Indiana Court Of Appeals opinion without Authority or case on point that Loubser's Motion for relief of void judgment Motion 60 B(6) was not raised in reasonable time and is subject to res judicata is in conflict with the authority of this Court that such judgment may be collaterally impeached and there is no bar for recover to have such a judgment set aside and it is not limited by the one year limitation as other 60(b) motions. Therefore this Court's supervisory authority is called upon.

II. JUDGEMENT IN DENIAL OF EQUAL PROTECTION IS *VOID AB INITION* AND RELIEF CAN BE SOUGTH ANY TIME.

"Deprivation of right to fair unbiased, unprejudiced court" was deliberately" based upon an unjustifiable standard such as race "*Mueller v. State* 837 N.E.2d 198 (Ind.App.,2005) Judge Thacker's open association with racists profiling Loubser as " a fucking South African Bitch who makes to much Fucking money" violates equal protection, fair and substantial relation standards which was to be applied. *Reilly v. Robertson* 266 Ind. 29, 360 N.E.2d 171 (Ind. 1977). "State must not discriminate against a person because of his race "

Adickes v. S. H. Kress & Co, 398 U.S. 144, 90 S.Ct. 1598(U.S.N.Y. 1970) Violation of equal protection clause of the Fourteenth Amendment, follows violation of equal privileges provision of the Indiana Constitution. *U.S.C.A.Const. Amend. 14; Const. art. 1, § 23.*" *Indiana High School Athletic Ass'n v. Raike* 164 Ind.App. 169, 329 N.E.2d 66 (Ind.App. 1975). Loubser was denied the equal protection of when attorneys unconscionable scheme to sustain Loubser's trial, against her will, before a biased and racially prejudiced judge when her attorney Dechert on May 28, 2002 had a meeting in judge Thacker's chambers and agreed not to remove her from Judge Thacker's jurisdiction so that he could procure the pre-determined judgment, to deprive the her" of her property and livelihood by corrupting her divorce proceeding" *Loubser v. Thacker* 440 F.3d 439, *443 (C.A.7 (Ind.),2006). Her attorney Justice refused to remove her from judge Thacker's jurisdiction as well. Fourteenth amendment denies any state the power to withhold from citizens the equal protection of the laws. *Strauder v. State of West Virginia* 100 U.S. 303, 1879 WL 16562, 1 (U.S.W.Va.) (U.S.1879), *Ex parte Commonwealth of Virginia* 100 U.S. 339, 1879 WL 16561, 1 (U.S.Va.) (U.S.1879). The trial court deliberately denied Loubser change of venue from County and judge when judge Thacker had meeting on this issue in his chambers on May 28, 2002 and determined the outcome of the trial in his chambers and the judge agreed to an unconscionable scheme with attorney's Hoover and Dechert, to threaten Loubser with the " threat of coercion through law or legal process" *U.S. v. Kozminski* 487 U.S. 931, 108 S.Ct. 2751 (U.S.Mich.,1988) and "psychological coercion" *U.S. v. Kozminski* 487 U.S. 931, 108 S.Ct. 2751 (U.S.Mich.,1988) that she had to move back home

or face deprivation "of her property and livelihood by corrupting her divorce proceeding" *Loubser v. Thacker* 440 F.3d 439, *443 (C.A.7 (Ind.),2006) "This error requires the judgment be vacated." *Cooley v. Koetter Woodworking, Inc.* 607 N.E.2d 975, *975 (Ind.App. 1 Dist.,1993) "Automatic change of venue in civil actions upon proper and timely motion was designed to guarantee fair and impartial trial. "*Trial Procedure Rule 76. Osmulski v. Becze* 638 N.E.2d 828 (Ind.App. 3 Dist.,1994). Which Loubser was denied. "Therefore, justice must satisfy the appearance of justice." *Offutt v. U.S.* 348 U.S. 11, *14, 75 S.Ct. 11, **13 (U.S. 1954)"Loubser's case does not satisfy the appearance of justice. Judge Thacker also engaged in a unconscionable scheme with attorney Justice to threaten Loubser with 'the " threat of coercion through law or legal process" *U.S. v. Kozminski* 487 U.S. 931, 108 S.Ct. 2751 (U.S.Mich.,1988) and "psychological coercion" *U.S. v. Kozminski* 487 U.S. 931, 108 S.Ct. 2751 (U.S.Mich.,1988), (Pet. App. 21) if she sought any legal remedy to correct blatant errors such as tax year on her corporation (Pet. App. 19-20) that incorrectly was found by judge Thacker to run from August 1-2001 to July 31 2001, otherwise judge Thacker could not could not justify the rewards he promised to Pala's attorney Hoover in his chambers on May 28, 2002 . The remedy by appeal was inadequate the court of appeals do not reweigh the evidence and Lousber's trial attorney and appellate attorney Stone agreed not to change it on appeal not to upset this judgment. This judgment in violation of the equal protection clause of the fourteenth amendment is void and Loubser should be relieved from it. The Indiana Court of Appeals opinion that this void judgment can not be set aside for not filing it timely should thus be

set aside pursuant to the binding authority of this Court. Therefore the supervisory Authority of this court is called upon.

III. INDIANA JUDICIAL CODE OF CONDUCT

"Judges have a duty to promote public confidence in the impartiality of the judiciary. Code of Jud.Conduct, Canon 2. *Brown v. State* 684 N.E.2d 529 (Ind.App.,1997)" Judge should recuse himself under circumstances in which a reasonable person, knowledgeable of all the circumstances, would have a reasonable basis for doubting judge's impartiality; accordingly, even the appearance of partiality requires recusal. Code of Jud.Conduct, Canon 2. *Brown v. State* 684 N.E.2d 529 (Ind.App.,1997)"The standard for a judge to disqualify himself is not whether the judge personally believes himself or herself to be impartial, but whether a reasonable person aware of all the circumstances would question the judge's impartiality. Code of Jud.Conduct, Canon 3(E)(1)." *In re Morton* 770 N.E.2d 827 (Ind.,2002)"One purpose of a judge's self-disqualification is to preserve the parties' and the public's faith in the fairness of the system, even when the judge asserts he has no personal bias. Code of Jud.Conduct, Canon 3(E)(1)." *In re Morton* 770 N.E.2d 827 (Ind.,2002)

"justice should disqualify himself in a proceeding whenever his impartiality might reasonably be questioned." *Board of Trustees of Public Employees' Retirement Fund v. Hill* 472 N.E.2d 204 (Ind.,1985).

Judge Thacker should have abided by the Indiana Code of Judicial conduct and *Sua Sponte* recused himself and definitely recused himself on May 28, 2002 when Dechert supposedly raised the issue in judge Thacker's chambers. The Indiana Court of Appeals did not deny that evidence of judicial bias against Loubser was present due to the judge Thacker's close personal relationships with Pala's friends and his daughter Dana's close relationship with

Jill Roth, daughter of Candace Roth who physically touched Judge Thacker on December 31, 2003 before he granted the biased decree on January, 23, 2003. Loubser could not raise this issue earlier, because of the unconscionable scheme of her attorney's with Pala's attorneys and judge Thacker to protect this pre-determined judgment of May 28, 2002 this was only discovered by Loubser on October 8, 2004 The Indiana Court of Appeals offers no authority supporting their argument that a judgment through judicial bias is not *void ab initio* if it was not raised in a "reasonable time" or what is "reasonable time" for a judgment *void ab initio* is. Loubser have sited numerous authorities from this Court and United States Courts of Appeals and the Indiana Supreme Court that conflicts with this application of federal law. It should also be noted that due to the pending litigation in federal court due to these violators" so far succeeded in corrupting the state judicial process as to obtain a favorable judgment." *Nesses v. Shepard,* 68 F.3d 1003, 1005 (7th Cir.1995). *Loubser v. Thacker* 440 F.3d 439, *444 (C.A.7 (Ind.),2006). That the state of Indiana has a "pecuniary interest against him, is denial of due process. U.S.C.A.Const.Amend. 14.*Tumey v. State of Ohio* 273 U.S. 510, 47 S.Ct. 437 (U.S., 1927) . This is the same judge *Sheppard* that denied Loubser's transfer of petition to the Supreme Court of Indiana. Loubser only If the Indiana Court of Appeals granted Loubser's Motion for relief of judgment based on biased judge Thacker they would have made and admission to claims in federal court. For all the reasons enumerated above the Indiana Court of Appeals should have granted Loubser relief of judgment and the relief of a judgment that was *void ab initio* for judicial bias and racial prejudice should not have been barred by "reasonable time" limitations, because reasonable time for void judgment is any time. The supervisory authority of the Supreme Court is therefore called upon.

CONCLUSION

For the foregoing reasons the decision of the Indiana Court of Appeals should be reversed and Loubser should be relieved from the judgment that is *void ab initio* for violation of fourteenth amendment due process and equal protection.

Respectfully Submitted,

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August 14, 2006

STATUATORY APPENDIX

28. USCA § 1257. State courts; certiorari

(a) Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

U.S.C.A. Const. Amend. XIV § 1

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the

United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. "

Amendment XIII. Slavery Abolished; Enforcement
Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Indiana Const. Art. 1, § 12 Courts open; remedy by due course of law; administration of justice
Section 12. All courts shall be open; and every person, for

injury done to him in his person, property, or reputation, shall have remedy by due course of law. Justice shall be administered freely, and without purchase; completely, and without denial; speedily, and without delay.

Indiana Const. Art. 1, § 23 Equal privileges
Section 23. The General Assembly shall not grant to any citizen, or class of citizens, privileges or immunities, which, upon the same terms, shall not equally belong to all citizens.

Code of Judicial Conduct
CANON 1: A Judge Shall Uphold the Integrity and Independence of the Judiciary "*Code of Jud.Conduct, Canon1* "
CANON 2 : A Judge Shall Avoid Impropriety and the Appearance of Impropriety in All the Judge's Activities A. A judge shall respect and comply with the law and shall act at all times in a manner that promotes

public confidence in the integrity and impartiality of the judiciary." *Code of Jud.Conduct, Canon 2 (A)*" A judge shall not allow family, social, political or other relationships to influence the judge's judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge. " *Code of Jud.Conduct, Canon 2(B)"* A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, religion or national origin. *Code of Jud.Conduct, Canon 2(C)*". A judge may properly lend the prestige of the judge's office to advance the public interest in the administration of justice." *Code of Jud.Conduct, Canon 2(D)*

CANON 3. A Judge Shall Perform the Duties of Judicial Office Impartially and Diligently

A. Judicial Duties in General. The judicial duties of a judge take precedence over all the judge's other activities. The judge's judicial duties include all the duties of the judge's office prescribed by law.

B. Adjudicative Responsibilities

(1) A judge shall hear and decide matters assigned to the judge except those in which disqualification is required. (2) A judge shall be faithful to the law and maintain professional competence in it. A judge shall not be swayed by partisan interests, public clamor or fear of criticism."*Code of Jud.Conduct, Canon 3(A)(B)(1)(2)*

E. Disqualification.

(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where" *Code of Jud.Conduct, Canon 3(E)(1)*

a) the judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of disputed evidentiary facts concerning the proceeding; *Code of Jud.Conduct, Canon 3(E)(1)(a)*

CANON 4: A Judge Shall so Conduct the Judge's Extra-Judicial Activities as to Minimize the Risk of Conflict With Judicial Obligations . A. Extra-judicial Activities in General. A judge shall conduct all of the judge's extra-judicial activities so that they do not:

(1) cast reasonable doubt on the judge's capacity to act impartially as a judge;

(2) demean the judicial office; or

(3) interfere with the proper performance of judicial duties." *Code of Jud.Conduct, Canon 4(A)(1)(2)(3)*

I.C. 31-15-7-4 Division of property

Sec. 4. (a) In an action for dissolution of marriage under IC 31-15-2-2, the court shall divide the property of the parties, whether:

(1) owned by either spouse before the marriage;

(2) acquired by either spouse in his or her own right:

(A) after the marriage; and

(B) before final separation of the parties; or

(3) acquired by their joint efforts.

Rule 60. Relief from judgment or order

(B) Mistake--Excusable neglect--Newly discovered evidence--Fraud, etc. On motion and upon such terms as are just the court may relieve a party or his legal representative from an entry of default, final order, or final judgment, including a judgment by default, for the following reasons:

(1) mistake, surprise, or excusable neglect;

(2) any ground for a motion to correct error, including without limitation newly discovered evidence, which by due diligence could not have been discovered in time to move for a motion to correct errors under Rule 59;

(3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party;

(4) entry of default or judgment by default was entered against such party who was served only by publication and who was without actual knowledge of the action and judgment, order or proceedings; (5) except in the case of a divorce decree, the record fails to show that such party was represented by a guardian or other representative, and if the motion asserts and such party proves that (a) at the time of the action he was an infant or incompetent person, and (b) he was not in fact represented by a guardian or other representative, and (c) the person against whom the judgment, order or proceeding is being avoided procured the judgment with notice of such infancy or incompetency, and, as against a successor of such person, that such successor acquired his rights therein with notice that the judgment was procured against an infant or incompetent, and (d) no appeal or other remedies allowed under this subdivision have been taken or made by or on behalf of the infant or incompetent person, and (e) the motion was made within ninety [90] days after the disability was removed or a guardian was appointed over his estate, and(f) the motion alleges a valid defense or claim; (6) the judgment is void; (7) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or(8) any reason justifying relief from the operation of the judgment, other than those reasons set forth in sub-paragraphs (1), (2), (3), and (4).The motion shall be filed within a reasonable time for reasons (5), (6), (7), and (8), and not more than one year after the judgment, order or proceeding was entered or taken for reasons (1), (2), (3), and (4). A movant filing a motion for reasons (1), (2), (3), (4), and (8) must allege a meritorious claim or defense. A motion under this subdivision (B) does not affect the finality of a judgment or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order or proceeding or for fraud upon the court. Writs of coram nobis, coram vobis, audita querela, and bills of

review and bills in the nature of a bill of review, are abolished, and the procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action.
(D) Hearing and relief granted. In passing upon a motion allowed by subdivision (B) of this rule the court shall hear any pertinent evidence, allow new parties to be served with summons, allow discovery, grant relief as provided under Rule 59 or otherwise as permitted by subdivision (B) of this rule.

➡Rule 60. Relief From Judgment or Order
(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud, Etc. On motion and upon such terms as are just, the court may relieve a party or a party's legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or (6) any other reason justifying relief from the operation of the judgment. The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than one year after the judgment, order, or proceeding was entered or taken. A motion under this subdivision (b) does not affect the finality of a judgment or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to grant relief to a defendant not actually personally notified as provided in Title 28, U.S.C., § 1655, or to set

aside a judgment for fraud upon the court. Writs of coram nobis, coram vobis, audita querela, and bills of review and bills in the nature of a bill of review, are abolished, and the procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action.

Rule 76. Change of venue

(A) In civil actions where the venue may be changed from the county, such change of venue from the county may be had only upon the filing of a verified motion specifically stating the grounds therefor by the party requesting the change. The motion shall be granted only upon a showing that the county where suit is pending is a party or that the party seeking the change will be unlikely to receive a fair trial on account of local prejudice or bias regarding a party or the claim or defense presented by a party. A party shall be entitled to only one change of venue from the county. Denial of a motion for change of venue from the county shall be reviewable only for an abuse of discretion. The Rules of Criminal Procedure shall govern proceedings to enforce a statute defining an infraction.

(B) In civil actions, where a change may be taken from the judge, such change shall be granted upon the filing of an unverified application or motion without specifically stating the ground therefor by a party or his attorney. Provided, however, a party shall be entitled to only one [1] change from the judge. After a final decree is entered in a dissolution of marriage case, a party may take only one change of judge in connection with petitions to modify that decree, regardless of the number of times new petitions are filed. The Rules of Criminal Procedure shall govern proceedings to enforce a statute defining an infraction.

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August 14, 2006

APPENDIX

Supreme Court, U.S.
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(2)

No.

IN THE

Supreme Court of the United States

Annare L (Pala) Loubser,
Petitioner

v.

Alexander R. Pala
Respondent

On Petition For Writ Of Certiorari
To The Indiana Court Of Appeals

PETITIONERS APPENDIX FOR WRIT OF CERTIORARI

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1415 N Main Street,
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August 14, 2006

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	Monticello, Indiana

IN THE
COURT OF APPEALS OF INDIANA

ANNARE L. (PALA) LOUBSER,	)	
	)	
Appellant-Petitioner,	)	
	)	
vs.	)	No. 91-A05-0504-CV-211
	)	
ALEXANDER R. PALA,	)	
	)	
Appellee-Respondent	)	

APPEAL FROM THE WHITE CIRCUIT COURT
The Honorable Rex. W. Kepner, Judge
Cause No. 91C01-0108-DR-147

February 3, 2006

MEMORANDUM AND DECISION-NOT FOR PUBLICATION

MATHIAS, Judge

In 2003, Annare (Pala) Loubser ("Loubser") and Alexander Pala's ("Pala") marriage was dissolved in the White Circuit Court. On April 6, 2005, Loubser filed a motion for relief from judgment pursuant to Trial Rule 60(B)(6) and (8). The trial court denied her motion without a hearing. Loubser appeals and argues that the trial court abused it's discretion when it denied her motion for relief of judgment. We Affirm.

Fact and Procedural History

Facts pertinent to this appeal are found in our court's resolution of Loubser's original appeal of the dissolution decree.

Annare and Alexander were married on August 27, 1994. Annare has a BSC degree in physical therapy from a university in Cape Town, South Africa. She was the director of physical therapy at White County Memorial Hospital from 1991 to 1995. She later worked at Twin Lakes Rehab in Monticello until she opened her own practice, Relief Therapy Services, in December 1999. Alexander is an achondroplastic dwarf who was employed at a plumbing hardware supply store for approximately 20 years as a laborer. His physical condition deteriorated, and he had back surgery in April 1994. Because this did not cure his back problem, he became eligible for social security disability benefits on June 12, 1996, receiving $842 per month with a $54 deduction for Medicare.

The couple separated on August 7, 2001, and Alexander filed for divorce one week later. Pursuant to Trial Rule 52, Annare requested that the trial court make specific findings of facts and conclusions of law

following the final dissolution hearing. At the final hearing on October, 17-18, 2002 both Alexander and Annare presented evidence from experts, including testimony and reports, regarding value of Annare's business. These values varied widely, ranging from $140, 677 as of July 31, 2002 after applying a 31.16 % write off and adjustment rate to accounts receivable, to $ 566 000 for 100% of the common stock of the business as of August 14, 2001.

The trial court issued the decree of dissolution on January, 23, 2003. The trial court valued Annare's business at $150 000. Additionally, the trial court found that Alexander had presented sufficient evidence to rebut the presumption of an equal marital division of property because he brought the marital residence and retirement account into the marriage and because Annare has a significantly higher earning capacity than Alexander. The trial court therefore awarded Alexander approximately 73% of the marital property. Alexander was also awarded maintenance in the amount of $1200 per month during the period of Alexander's incapacity. The trial court additionally ordered Annare to maintain health insurance for Alexander for eighteen months after the dissolution. Finally, the trial court ordered Annare to pay Alexander's attorney fees in the sum of $ 25 000.

Loubser v. Pala No.91 A04-0305-CV-239, Slip op. at 2-4(Ind. Ct. App. November, 6, 2003), trans. denied (footnote omitted).

Loubser raised several issues in her original appeal, including challenges to the valuation of her business, the division of marital assets, the award of maintenance to Pala and award of attorney's fees to Pala. Pala cross-appealed also challenging the valuation of

Loubser's business and arguing that trial court failed to consider certain marital assets when it divided the marital estate. After considering the various issues raised, our court affirmed the trial court in all respects.

On March 29, 2004, Loubser filed a "Petition for Modification of Permanent Spousal Maintenance" and a motion for change of venue from judge. See Appellant's App. p. 142. The motion for change of venue was granted and Benton Circuit Court Judge Rex Kepner accepted jurisdiction of this case.

On April 21, 2004, Pala filed a request to increase spousal maintenance. In addition, Pala later filed a request for appellate attorney fees and a request for "reimbursement of tax refund owed to" Pala. Hearings were held on these and other various motions on June 10, July 1 and August 27, 2004. On September 15, 2004, the trial court issued an order addressing the parties' 2002 tax refund and appellate attorney fees. The trial court also ordered Pala to make himself available for a mental and physical examination and determined that a hearing date on the termination or modification of spousal maintenance would be established "once the mental and physical examination and determined that a hearing date on termination or modification of spousal maintenance would be established "once the mental and physical examination dates are determined."[1] Appellant's App. pp. 163-64.

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[1] Shortly thereafter , Loubser filed a complaint in federal court naming virtually all individuals involved in the dissolution proceedings, including Special Judge Kepner, as defendants. As required by Order of the Supreme Court on February 11, 2005, Judge Kepner held a hearing to determine whether he should recuse himself from this case. After concluding that Loubser believed that he could not be impartial and unbiased because she had filed a Lawsuit against him, judge Kepner recused himself. See App. p.

On April 6, 2005 , Loubser filed a motion for relief from judgment pursuant to Trial rule 60(B)(6)(8) arguing that the judgment was "void ab initio due to the extraordinary circumstances in this case unconstitutionally procured through fraudulent scheme and in violation of the Fourteenth Amendment." Appellant's App. p. 1. On April 11, 2005, the trial court denied Loubser's motion without holding a hearing stating." The Court finds the [motion] is untimely, should have been raised prior to appeal, or certainly should have been raised long before now. In addition, the motion fails to satisfy Trial Rule 60 and fails on the merits." Appellant's App. 133. Loubser now appeals.

Standard of Review

We review the trial court's denial of motion for relief from judgment for abuse of discretion. Case v. Case, 794 N.E.2d 514,517(Ind. Ct. App. 2003). An abuse of discretion occurs when the court's judgment is "clearly against the logic and effect of the facts and inferences supporting the judgment for relief." Id. "On a motion for relief from judgment, the burden is on the movant to demonstrate that relief sought is both necessary and just" Darling v. Martin , 827 N.E.2d 1199, 1202 (Ind.Ct. App. 2005)(citation omitted)

Discussion and Decision

Loubser argues that she is entitled to relief from judgment under Rule 60(B)(6) and (8), which provides that a court may relieve a party form an entry of a final judgment if "the judgment is void" or for "any reason

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[1](continue) 172-174. However, on March 24, 2005, the Supreme Court remanded jurisdiction of the case to Judge Kepner after concluding that his recusal order "states insufficient basis for the appointment of a special judge." See March 24, 2005 Order.

justifying relief from operation of judgment, other than those reasons set forth in sub-paragraphs(1), (2), (3), and (4)." [2] Moreover, a 60(B) motion "shall be filed within reasonable time for reasons (5),(6),(7), and (8), and...[a] movant filing a motion reasons(1), (2), (3), (4) and (8) must allege a meritorious claim or defense." Ind. Trial Rule 60(B) (2006). First, we address Loubser's allegation that her dissolution decree was procured through an "extra-judicial fraudulent scheme to influence the verdict and procure a favorable judgment through personal bias prejudice and partiality[.]" Appellant's App. p. 92 She also claims that there was a fraudulent extra-judicial scheme to solicit fraudulent testimony and to conceal assets and to protect this judgment by attorney's[sic] in this case[.]" Id. Therefore, although she titled her motion as a rule 60(B)(6) and (8) motion, we will treat it as a Rule 60 (B) motion for fraud of the court. There are three ways to attack a judgment under Rule 60(B) on the grounds of fraud of the court. The first method is by way of a motion filed under Trial Rule 60(B)(3); however, since this motion may not be made more than one year after the judgment was entered, Loubser may not pursue relief under Rule 60(B)(3). See Sheperd v. Truex, 823 N.E.2d 320,325 (Ind. Ct. App.2005) The second method is an independent action for fraud of the court pursuant to the savings clause of Trial Rule 60(B), which provides that his rule does not limit the power of a court to entertain

[2] Trial Rule 60(B) (1-4) provides that a court may relieve a party from an entry of final judgment due to "(1) mistake, surprise, excusable neglect; (2) any ground for a motion to correct error, including without limitation newly discovered evidence, which by due diligence could not have been discovered in time to move for a motion to correct errors under Rule 59 ; (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or

an independent action to relieve a party from a judgment, order or proceeding or for fraud upon the court. Independent actions are usually reserved for situations that do not meet the requirements for a motion made under Rule 60(B)(3). For example, the fraud might not be chargeable to an adverse party, the movant might be seeking relief form a court other than the rendering court, or more often the one -year time limitation for Trial Rule 60 (B)(3) motions has expired. An independent action is subject to the doctrine of laches and its remedy is extremely limited.

The third method, which also arises out of the savings clause of Trial Rule 60(B), invokes the inherent power of a court to set aside its judgment if procured by fraud on the court. Relief in these circumstances is not dependant upon the filing of a motion by a party to the original judgment. Rather, the court may assert this power sua sponte. In addition, there is not time limitation for these proceedings.

Id. (internal quotations omitted).

A party asserting a claim of fraud on the court must establish that an unconscionable plan or scheme was used to improperly influence the court's decision and that such acts prevented the losing party from fully and fairly presenting its case or defense. Id. " Fraud on the court has been narrowly applied and is limited to the most egregious of circumstance involving the courts."(citing Stronger v. Sorrell, 776 N.E.2d 353, 357 (Ind. 2002)). "[T]o prove fraud on the court, it is not enough to show a possibility that the trial court was misled. Rather, there must be a showing that the trial court's decision was

[2] (continued) other misconduct of an adverse party; [or] (4) entry of default or judgment by default was entered against such party who was served only by publication and who was without actual knowledge of the action and judgment, order or proceedings[.]" Ind. Trial Rule 60(B)(2006).

actually influenced." Id.(citing Stronger, 776 N.E.2d at 358).

We also observe that "[t]he principle that balances the competing interest of finality of judgments and the need for relief from fraudulently procured judgments...is found in the rule that an independent action for relief from a judgment may not be entertained if ' there was an opportunity to have the ground now relied upon to set aside the judgment fully litigated in the original action.'" Id. at 326(quoting 12 James Wm. Moore et al. , Moore's Federal Practice § 60.81[1][b][iv](3rd ed. 1977)). " This principle is recognition that an independent action , which in many circumstances is a collateral attack on a judgment, is subject to the doctrine of res judicata." Id. Pursuant to the doctrine of res judicata, a claim that was or could have been litigated in the underlying proceeding may not be relitigated in an independent action to set the underlying judgment aside. Id.

Loubser makes several specific allegations concerning what she contends is fraudulent conduct, including 1) " the attorney's [sic] in this case deliberately and intentionally engaged in pre-trial arrangements to...leave information out of the case-in-chief to procure a favorable verdict for...Pala; 2) Loubser's Trial and appellate attorneys " deliberately and intentionally refused to address.....Loubser's request for retrial because the judgment was unconstitutionally obtained [sic] without due process in an impartial tribunal;"3) Loubser's trial counsel "deliberately and intentionally refused to produce evidence and call witnesses in the case- in-chief and deliberately refused to bring documents to court in wife's defense; " 4) the attorney's fraudulently concealed " the fact that petitioner husband had a trust fund that he fraudulently concealed from the trial court and the

Appellate Court in a deliberate attempt to place and hold the wife in a condition of involuntary servitude through spousal maintenance when he concealed his other sources of income." Appellant's App. pp. 92-132.

With her motion, Loubser submitted numerous exhibits in support of her claims of fraudulent conduct. However, contrary to Loubser's claims these exhibits do not offer any indication that fraudulent conduct occurred. For example, including in the exhibits are numerous letters to and faxes between Loubser and her attorneys. In these documents, Loubser discusses the evidence presented at the dissolution hearing and/or requests that her attorney undertake certain actions on her behalf, but these documents do not indicate that any fraudulent activity occurred. See e.g. Appellant's App. pp. 28-45, 48-52. Loubser also submitted billing statements from Pala's attorney, however, these statements do not provide any evidence that Pala'a attorney and /or Loubser's attorneys engaged in fraudulent conduct. See e.g. Appellant's App. pp. 59-67, 76-77, In addition, Loubser submitted a billing statement and transaction report from Pala'a attorney which shows transfers from attorney's trust account into another account. See Appellant's App. pp. 6-7 Yet, these documents do not support Loubser's claim that Pala has a trust fund. Finally, to the extent that Loubser is attempting to relitigate the issues addressed in her dissolution decree, she is barred from doing so by the doctrine of res judicata.

Loubser also contends that she is entitled to relief form judgment under Trial Rule 60(B)(6) and (8) because she obtained evidence on "December, 31, 2002 of judge Robert Thacker's personal bias and prejudice and partiality to husband Alexander R. Pala and his friends." Appellant's App. pp. 92-93. As evidence of Judge

Thacker's alledged bias, Loubser relies on observationds mad by herself and allegedly by other individuals during the dissolution proceedings in 2002 and 2003. Loubser also states repeatedly that she questioned judge Thacker's impartiality prior to entry of the final decree. Concerning this claim, we concluded that Loubser failed to file her 60(B)(6) and (8) motion" within reasonable time." Moreover, we observe that Loubser's motion for change of judge was granted and judge Thacker is no longer involved in these proceedings.

Finally, we note that the trial court did not hold a hearing on Loubser's motion. Pursuant to Trial Rule 60(D), "[i]n passing upon a motion allowed by subdivision(B) of this rule the court shall hear any pertinent evidence[.]" However, a hearing is unnecessary where there is no pertinent evidence. Benjamin v. Benjamin, 798 N.E. 2d 881, 889 (Ind. Ct. App. 2003). Given that the documentary evidence submitted by Loubser in support of her motion offers no indication that any fraudulent conduct occurred and her claims of judicial bias were not raised within reasonable time, we conclude that the trial court did not err when it failed to hold a hearing on her trial rule 60(B) motion.

Affirmed.

BAKER, J., and RILEY., J concur.

CLERK
SUPREME COURT, COURT OF APPEALS, AND TAX COURT
STATE OF INDIDNA
217 STATE HOUSE, INDIANAPOLIS, IN 46204
317-232-1930 * FAX 317-232-8365

LOUBSER, ANNARE L. (PALA)	Cause Number 91A05-0504-CV-00211 Lower Court Number: 91C01010 08DR147
1415 N. MAIN STREET MONTICELLO, IN 47960	

LOUBSER, ANNARE L. (PALA) –V- PALA, ALEXANDER R.

You are hereby notified that the SUPREME COURT has on this day 6/01/06.

THIS MATTER HAS COME BEFORE THE INDIANA SUPREME COURT ON A PETITION TO TRANSFER JURISDICTION FOLLOWING THE ISSUANCE OF A DECISION BY THE COURT OF APPEALS. THE PETITION WAS FILED PURSUANT TO APPELLATE RULE 57. THE COURT HAS REVIEWED THE DECISION OF THE COURT OF APPEALS. ANY RECORD ON APPEAL THAT WAS SUMITTED HAS BEEN MADE AVAILABLE TO THE COURT FOR REVIEW, ALONG WITH ANY AND ALL BRIEFS THAT MAY HAVE BEEN FILED IN THE COURT OF APPEALS AND ALL THE MATERIALS FILED IN CONNECTION WITH THE REQUEST TO TRANSFER JURISDICTION. EACH PARTICIPATING MEMBER OF THE COURT HAS

VOTED ON THE PETITION. EACH PARTICIPATING MEMBER HAS HAD THE OPPORTUNITY TO VOICE THAT JUSTICE'S VIEWS ON THE CASE IN CONFERENCE WITH THE OTHER JUSTICES.

BEING DULY ADVISED, THE COURT NOW DENIES THE APPELLANT'S PETITION TO TRANSFER OF JURISDICTION.

RANDALL T. SHEPARD, CHIEF JUSTICE
ALL JUSTICES CONCUR

Witness my name and seal of said court,
This 1st day of JUNE, 2006

/s Kevin S. Smith
Clerk, Supreme Court,
Court of Appeals and Tax Court

A Yes.
Q When did you meet Al Pala?
A November 1, 1991.
Q How?
A I worked in Monticello. Uh, Terry Cox was the lady that was my secretary at White County Memorial Hospital, and uh, she helped me find a home to live in Monticello and then as soon as I get back with my Ryder's Truck, she took me out to Riverside and that's where I met Al and all his friends.
Q It was a social introduction?
A Yes.
Q Not as a patient?
A No.
Q Did you and he later form a relationship?
A Yes.
Q Did you later get married?
A Yes.
Q When?
A August 27th, 1994.
Q How old were you?
A Twenty-eight.
Q Had you ever been married before, Annare?
A No.
Q And how old was your Husband?
A Forty-two, I believe.

and we dated along and stuff, fell in love, and we got married.

Q Uh, the - I want to switch now for a little bit to the uh, uh, the parties' relative financial condition at the time you got married. Okay? Uh, the residence that you had, that you live in now, how did you - how did you come to have that?

A It was - I - I, basically, I guess you'd say, inherited it. Uh, it was my father's and my stepmother's, and at the time my father was in the nursing home, and I was still living at home, taking care of the property, and stuff, and, you know, my dad couldn't do anything, and, my stepmother, I told her, I says, "You know, we've got to do something here," I says, -

Q Well, let - let me just ask, when did you inherit the property?

A In - I can't remember the exact date, uh, -

Q Was it before you got married?

A Yes.

Q Oh, was it before you met Annare?

A Oh, yes, way before. Yeah. I don't know the exact date.

Q And when you inherited it, was there much debt against it?

A Yes, there was a mortgage on it.

Q How much? Do you remember?

Q Did there come a time when you were recruited by our community hospital here - our - or White County Memorial?
A Yes, Sir.
Q And did you come to this community in 1991, is that right?
A Yes.
Q And what did you do for White County?
A I was the Director of Physical Therapy at White County Memorial Hospital.
Q For how long?
A From 1991 to 1995.
Q From '91 to '95?
A Yes.
Q And in '95 I believe you went with another group.
A I went to work for Dr. McCoumeron, which is an orthopedic surgeon in Kokomo, Indiana.
Q And for how long was job?
A Approximately eight months.
Q And then where did you go?
A I was recruited back by my former corporation, Industrial Rehabilitation Associates, to open Twin Lakes Rehab in Monticello, Indiana.
Q How long were you with that - that group?
A Uh, until I opened Relieve Therapy Services in 1999.
Q December, 1999, you opened your own business?

Itemized Categories

8/8/01 Through 10/4/02

10/15/02

Cat/Sub	Date	Account	Num	Description	Memo	Cl	Amount
EXPENSES							
Divorce							
	8/11/01	Annare P...	1	Al Pala	Spending/ AL		-100.00
	8/19/01	Annare P...	4	Ajax Exterminators	2882 N. Baers CT		-220.00
	8/19/01	Annare P...	5	Naturally Green	03/30.06/01.28/01		-301.25
	8/19/01	Annare P...	6	Insight Communications	2882 N. Baers CT		-11.36
	8/19/01	Annare P...	EFT	Overdraft AL	#925653/ Bank CH		-273.85
	8/19/01	Annare P...	EFT	Overdraft AL	#925653/bank CH		-12.00
	8/19/01	Annare P...	EFT	Overdraft AL	#925653/Bank CH		-85.00
	8/19/01	Annare P...	EFT	Overdraft AL	#926853Bank CH		-250.00
	8/19/01	Annare P...	EFT	Overdraft AL	#925853 Bank CH		-74.17
	8/19/01	Annare P...	7	GMAC Morgage 2882 N. ...	2882 N Baers Ct Mortg		-1,416.58
	8/21/01	Annare P...	EFT	Bank Fees	Checks		-14.50
	8/23/01	Annare P...	4001	Robert Guy	Al's Attorney		-400.00
	9/11/01	Annare P...	4009	Jim Elliot	Marriage Counceling		-180.00
	9/24/01	Annare P...	4016	GMAC Morgage 2882 N. ...	2882 N Baers Ct		-1,416.58
	9/28/01	Annare P...	4017	Sprint	Family upset Al's CAlls		-694.92
	10/10...	Annare P...	EFT	Bank Fees	Lock Box Al's & Mine		-12.00
	10/22...	Annare P...	4025	Young	Paid fpr rental prop		-17.80
	10/30...	Annare P...	4028	GMAC Morgage 2882 N. ...	2882. N Baers Ct		-1,416.58
	11/5/01	Annare P...	4031	White County Treasurer/ 2...	Property Taxes		-274.02
	11/11...	Annare P...	4035	Tall Timbers Boat Expense	Service boat		-116.70
	11/11...	Annare P...	4036	Wisconsin DNR	Snowmobile3157624		-30.00
	11/11...	Annare P...	4037	ALexander Pala	He paid for me		-110.00
	11/18...	Annare P...	4042	GMAC Morgage 2882 N. ...	2882. N Baers Ct		-1,416.58
	11/26...	Annare P...	4048	**VOID**Counceling Minist...	Counceling	C	0.00
	11/27...	Annare P...	4049	Kerrell Travel REntal Car L...	AVISRental car		-528.00
	12/9/01	Annare P...	4055	GMAC Morgage 2882 N. ...	2882. N Baers Ct		-1,416.58
	1/16/02	Annare P...	4068	GMAC Morgage 2882 N. ...	2882. N Baers Ct		-1,416.58
	1/28/02	Annare P...	4075	Al Pala	Pots picked up in INDY		-120.00
	1/29/02	Annare P...	4076	GMAC Morgage 2882 N. ...	2882. N Baers Ct		-1,416.58
	2/10/02	Annare P...	4084	Tall Timbers Boat Expense	Storage		-475.00
	3/18/02	Annare P...	4107	GMAC Morgage 2882 N. ...	2882. N Baers Ct		-1,416.58
	4/8/02	Annare P...	4115	GMAC Morgage 2882 N. ...	2882. N Baers Ct		-1,416.58
	4/9/02	Annare P...	4161	State Farm Insurance	Boat 14-PA-7952-5		-206.00
	4/15/02	Annare P...	4173	Douglas Radersdorf			0.00
	5/10/02	Annare P...	4178	White County Treasurer/ 2...	Property Taxes		-799.51
	6/19/02	Annare P...	4121	GMAC Morgage 2882 N. ...	2882. N Baers Ct		-1,416.58
	7/8/02	Annare P...	4135	Werks Jewelry	Jewelry appraisal		-336.00
	7/22/02	Annare P...	4142	Chase Manhatten Record ...			-16.00
	7/30/02	Annare P...	4149	GMAC Morgage 2882 N. ...	2882. N Baers Ct		-1,416.58
	8/[illegible]/02	Annare P...	4180	White County Recorders O...	Records		-6.00
	8/27/02	Annare P...	4203	State Farm Insurance	Boat 14-PA-7952-5		-367.37
	8/27/02	Annare P...	4204	GMAC Morgage 2882 N. ...	2882. N Baers Ct		-1,414.32
	8/30/02	Annare P...	4205	GMAC Morgage 2882 N. ...	2882. N Baers Ct		-1,596.27
	9/26/02	Annare P...	4214	GMAC Morgage 2882 N. ...	2882. N Baers Ct		-1,414.92
TOTAL Divorce							-26,033.96
TOTAL EXPENSES							-26,033.96
OVERALL TOTAL							-26,033.96

STATE OF INDIANA)
COUNTY OF WHITE) SS:

I, BRUCE A. LAMBERT, Clerk of the Circuit Court of said County and State, do hereby certify the foregoing to be a full, true and correct copy of the record in my office.

WITNESS my hand and seal of said White Circuit Court at Monticello, Indiana this 12 day of Oct. 20 02

BRUCE A. LAMBERT
Clerk White Circuit Court
BY Bruce A. Lambert DEPUTY

deliberately altered so that he could justify the rewards to petitioner husband Pala, that she would be punished by law. This all because judge Robert w Thacker was personally bias and partial and prejudice see (exhibits 15),as offered by wife(Pala) Loubser, pictures (Exhibit 15), pictures of defendant judge Thacker with Candace Roth, relative and SSA representative and close personal friend of Husband Alexander Pala (Exhibit 15 page 46, document July 12, 2002, Document dated 06/9/02 (Exhibit 78; Exhibit 82 pages 4, 07/09/02 page 5 07/12/02) of petitioner Pala, 23 days prior to adverse decree. Loubser objected with concern that Judge Robert W Thacker has abandoned his impartiality on December 9, 2002 **prior** to the adverse judgment, Respondent wife Loubser was concerned that Candace Roth may influence Judge Robert W Thacker's judgment . On January 8, 2002, **prior** to the adverse judgment the respondent Loubser questioned Judge Robert W. Thacker's impartiality due to personal bias and prejudice and partiality husband, petitioner Pala's relative, and SSA representative Candace Roth. In the case before the court today it is also very clear in the fact that Judge Robert Thacker who used evidence he obtained at a social gathering, on December 31, 2002 , to determine the division of assets based on the life style that the litigant before him could maintain, was not a judicial act. It is not a judicial act for a judge to collect evidence at a social gathering and make judicial rulings on evidence he personally obtained outside the courtroom. It is also in violation of the Indiana Judicial code Conduct Canon 3 B(8) (a) (ii) , *Harper v Merckle* 638 F 2d 848 (5th Cir. 1981) and it is Violation of Indiana Judicial Code of Conduct Canon 3 (B)(8). On October 5 2004, wife fired her Attorney Courtney B Justice And Justice law ,et al on October , 8, 2004, he gave all her documents to her in which she discovered that Courtney B Justice made pre- trial arrangements with petitioner husband's attorney R. Dennis Hoover, to deliberately and intentionally withhold information from the case-in- chief.

R. Dennis Hoover
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October 11, 2002

BY FAX

Courtney B Justice, Esq.
627 E. Market St.
Logansport, IN 46947
TEL 574-722-2866
FAX 574-722-3502

Re: *Dissolution of Pala Marriage*
White Circuit Court
Cause No. 91C01-0108-DR-147
Our File: PALA0001/0205-FamLaw

Dear Courtney:

Confirming our phone call this morning:

1. OK for Dr Slick dep Mon AM; start promptly at 8; you'll take 15 min; I can have up to ½ hr; must be done by 9 AM.
2. Slick dep may delay when we can get stuff to Jg Thacker per local rule
3. OK for us to do summary exhibits for trial *n't* canceled cks, docs, etc.
4. OK for your expert Ws out of order but your experts won't pre-empt ours
5. As to atty fees & costs: you will argue both should pay their own, I will argue W should pay H's. But it's OK for us to submit H's exhibits at end of trial rather than during H's case-in-chief.
6. You have Strauch & Blankenship for Fri aft, but Blankenship may be moved to 23rd because he may have a conflict.
7. We doubt we can complete this trial in 2½ days, but we'll not delay start of trial, just go as far and fast as we can.

Sincerely,

Dennis

R. Dennis Hoover

to the marriage. The parties lived at such residence until their separation in August, 2001. Soon after the marriage, the Wife changed employment. She left White County Memorial Hospital and became employed at the Kokomo Orthopedic Clinic in 1995. In 1996, the Wife returned to Monticello to become employed at Twin Lakes Rehabilitation. During the marriage, in 1999, the Wife started her own physical therapy business in Monticello known as Relief Therapy Services, Inc. The business consists of a rented office space with two clerical staff, a physical therapy assistant, and the physical therapist Wife. For tax purposes, the business operates on a fiscal year basis beginning on August 1st. For the tax year August 1, 2001 to July 31, 2002, the business had net earnings of approximately $200,000.00. During the tax year beginning August 1, 2002, the Wife's business has continued to perform well financially, except there has been some business decrease due to a slow-down in the local economy with a few industrial lay-offs and closures which have resulted in a decrease of physical therapy referrals through group health insurance providers. During the marriage, with regard to the parties' residential real estate, the parties made improvements and refinanced the Husband's original residence resulting in an increased value at the time of the filing of the dissolution of $241,000.00 with an increased mortgage balance of $160,000.00. In addition, during the marriage, the parties acquired an adjacent rental property in April, 1998 at a cost of $78,500.00 with a mortgage of approximately $50,000.00. The current mortgage payments are $1,417.00 per month on the residential real estate and $474.00 per month on the adjacent rental property.

FILED
JAN 23 2003
WHITE COUNTY CIRCUIT COURT

Form **1120S** | **U.S. Income Tax Return for an S Corporation** | OMB No. 1545-0130 | **2001**

▶Do not file this form unless the corporation has timely filed Form 2553 to elect to be an S corporation.
▶See separate instructions.

Department of the Treasury — Internal Revenue Service

Calendar year 2001, or tax year beginning _____ and ending _____

A Effective date of election as an S corporation: 9/26/95

Use IRS label. Otherwise, print or type.

Name: Relieve Therapy Services, Inc.
Number, street, & room or suite no. (If a P.O. box, see page 11 of the instr.): 1415 N Main Street
City or town, state, and ZIP code: Monticello IN 47960

C Employer identification no.: [redacted]8887
D Date incorporated: 9/25/95
E Total assets (see page 11): $ 70,337

B Business code no. (see pages 29-31): 621340

F Check applicable boxes: (1) ☐ Initial return (2) ☐ Final return (3) ☐ Name change (4) ☐ Address change (5) ☐ Amended return

G Enter number of shareholders in the corporation at end of the tax year ▶ 1

Caution: Include only trade or business income and expenses on lines 1a through 21. See page 11 of the instructions for more information.

Income	1a Gross rcpt. or sales: 513,897	b Less ret. and allowances: 69,415	c Bal ▶	1c	444,482
	2 Cost of goods sold (Schedule A, line 8)			2	
	3 Gross profit. Subtract line 2 from line 1c			3	444,482
	4 Net gain (loss) from Form 4797, Part II, line 18 (attach Form 4797)			4	
	5 Other income (loss) (attach schedule)			5	
	6 Total income (loss). Combine lines 3 through 5		▶	6	444,482
Deductions (see page 12 of the instructions for limitations)	7 Compensation of officers			7	49,276
	8 Salaries and wages (less employment credits)			8	94,154
	9 Repairs and maintenance			9	727
	10 Bad debts			10	
	11 Rents			11	11,976
	12 Taxes and licenses			12	12,490
	13 Interest			13	2,228
	14a Depreciation (if required, attach Form 4562)	14a: 2,590			
	b Depreciation claimed on Schedule A and elsewhere on return	14b:			
	c Subtract line 14b from line 14a			14c	2,590
	15 Depletion (Do not deduct oil and gas depletion.)			15	
	16 Advertising			16	8,994
	17 Pension, profit-sharing, etc., plans			17	3,650
	18 Employee benefit programs			18	10,968
	19 Other deductions (attach schedule)	Stmt 1		19	105,601
	20 Total deductions. Add the amounts shown in the far right column for lines 7 through 19		▶	20	302,654
	21 Ordinary income (loss) from trade or business activities. Subtract line 20 from line 6			21	141,828
Tax and Payments	22 Tax: a Excess net passive income tax (attach sch.)	22a:			
	b Tax from Schedule D (Form 1120S)	22b:			
	c Add lines 22a and 22b (see page 16 of the instructions for additional taxes)			22c	
	23 Payments: a 2001 estimated tax payments & amount applied from 2000 return	23a:			
	b Tax deposited with Form 7004	23b:			
	c Credit for Federal tax paid on fuels (attach Form 4136)	23c:			
	d Add lines 23a through 23c			23d	
	24 Estimated tax penalty. Check if Form 2220 is attached		▶ ☐	24	
	25 Tax due. If the total of lines 22c and 24 is larger than line 23d, enter amount owed. See page 4 of the instructions for depository method of payment		▶	25	
	26 Overpayment. If line 23d is larger than the total of lines 22c and 24, enter amount overpaid		▶	26	
	27 Enter amount of line 26 you want: Credited to 2002 estimated tax ▶	Refunded ▶		27	

Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

May the IRS discuss this return with the preparer shown below (see page 3)? ☒ Yes ☐ No

▶ Signature of officer: Annare Pala — Date — Title: President

Paid Preparer's Use Only

Preparer's signature: Douglas E. Raderstorf — Date: 1/31/02 — Check if self-employed ☐ — Preparer's SSN or PTIN: [redacted]-8186

Firm's name (or yours if self-employed), address, and ZIP code: Raderstorf & Associates, P.C., 303 North Main Street, P.O. Box 706, Monticello, IN 47960 — EIN: [redacted]6592 — Phone no.: 219-583-5041

Abie Loubser

From: "Abie Loubser"
To: <justlaw@oqc.com>
Sent: Tuesday, February 18, 2003 5:30 PM
Subject: Re: reply

---- Original Message ----
From: Justice Law Offices
To: [redacted].co.za
Sent: Monday, February 17, 2003 4:44 PM
Subject: reply

February 14, 2003

Via E-Mail
Ms. Annare L. Loubser
[redacted].co.za

RE: Pala Dissolution of Marriage
White Circuit Court
Cause No. 91C01-0108-DR-147

Dear Ms. Loubser:

The attached letter was sent this afternoon to Mr. Hoover. We will be lodging our Appeal in the next week and if bankruptcy is indicated, we will proceed on that basis under your instructions.

The issues you have brought up in your e-mail of February 12, 2003, are those which Mr. Stone will want to direct his attention on the merits of the Appeal.

I do not intend to file a Motion to Correct Errors because after full consideration I believe Judge Thacker will not change his Order in our direction in any respect. Worse, if I point out to him his errors, he may correct his Order to eliminate those potential errors but to polish his findings up to make them appeal-proof in the Court of Appeals. I believe it is the better course to file a direct appeal to the Indiana Appellate Court and intend to do so barring your specific instructions to the contrary.

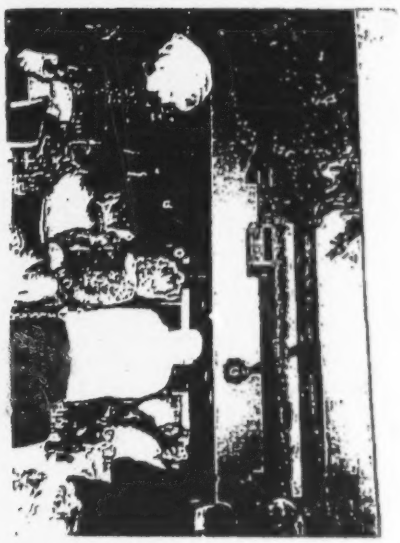
It is important to remember finally, that all errors can be raised for the first time in appeal and is not necessary – in this case unadvisable I believe – to file a Motion to Correct Errors.

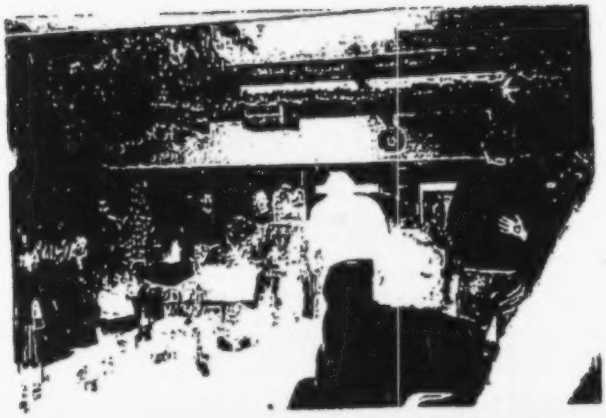
I am glad the weather is fair and hope that you are enjoying your time in South Africa.

Yours faithfully,

Courtney B. Justice

2/18/03





R. Dennis Hoover
Attorney
128 South Main Street
Monticello, Indiana
TEL (219) 583-0784
FAX (775) 206-6948

Mailing Address
P.O. Box 926
Monticello, IN 47960-0926
E-Mail rdhoover@lawyer.com

July 10, 2002

BY FAX

Brent R. Dechert, Esq.
Dechert Law Office
217 N. Main St. - P.O. Box 667
Kokomo, Indiana 46903-0667
Tel 765-459-0764
Fax 765-452-3673

Re: *Pala Dissolution*
White Circuit Court
Cause No. 91C01-0108-DR-147

Dear Mr. Dechert:

Subject to SSA approval (if necessary), this is my proposal concerning handling of the SSA records:

1. Al will appoint Candice Roth as his SSA representative.
2. Mrs. Roth (and I) will make arrangements and an appointment for her to go to the SSA office and copy the files.
3. We will notify you at least 7 days in advance of the date and time of the appointment.
4. Mrs. Pala's representative will meet Mrs. Roth at the SSA office (10 S. 2nd St., Lafayette) at the appointed time.
5. Mrs. Roth and Mrs. Pala's representative will:
   a. Copy the entire SSA file.
   b. Place the file in one or more envelopes, and seal and initial it/them;
   c. (Candice will) transport the envelopes directly to a copying service (preferably Copiers Plus in Monticello), where Mrs. Pala's representative may meet her;
   d. Have two (2) copies of the file made by the copying service;
   e. Each pay half (½) of the copying cost; and
   f. Each sign an original and two (2) copies of a statement previously approved by you and me to the effect that "this is a true and complete copy of Al's SSA file."
6. Mrs. Pala's representative will retain (for delivery to you) one of the copies of the file and statement.
7. Mrs. Roth will retain (for delivery to me) the original and the other copy.
8. You and I will prepare and submit a stipulation that the file is a joint exhibit, is authentic, is material to the issues in the case, and is admissible.

Please advise whether this is acceptable.

Kindest regards.

Sincerely,

Dennis Hoover

R. Dennis Hoover

Enc. as indicated
cc: Mr. Pala
Mrs. Roth
Office

STATE OF INDIANA)
COUNTY OF WHITE) SS:

I, BRUCE A. LAMBERT, Clerk of the Circuit Court of said County and State, do hereby certify the foregoing to be a full, true and correct copy of the record in my office.

WITNESS my hand and seal of said White Circuit Court, at Monticello, Indiana this 2nd day of July, 2002.

BRUCE A. LAMBERT
Clerk White Circuit Court
BY Margo Reed DEPUTY

FILED
JUL 29 2002
CLERK WHITE CIRCUIT COURT

Date	Description	Rate	Time	Amount
0624	Review letter from Daryl Carson, Peoples S&L. Study real estate and loan documents and notes. Make entries into chronology. Telephone conference with and fax to Theresa Lepper. Finish-fax-mail additional interrogatories. Phone conference with client. Re-fax 3d party discovery requests to opposing counsel.	150	4.30	645.00
0625	Receive/study 21-page fax from Prudential re insurance values. Phone conference and office conference with client. Skim new documents presented by client. Client will obtain info from Diener, has been promised appraisals by Cindy Duff, is obtaining closing statements from White Co. Abstract. Copies of recent pleadings to client. Deliver subpoena etc. to accountant Raderstorf.	150	2.00	300.00
0626	(After 5pm) Receipt-study of LF Atty Dechert with copies of discovery requests (29 pages). Prepare-fax letter to Atty Dechert; copy for client.	150	1.20	180.00
0626	Work on organizing exhibits	40	0.30	12.00
0627	Telephone conferences with accountant Raderstorf. Prepare letter to Raderstorf. Telephone conference with accountant Dobson. Letter by fax to Dobson.	150	2.30	345.00
0627	Re-do Table of Contents for Discovery. Make copies of new documents provided by client. Label copies. Scan portions of new documents.	40	1.10	44.00
0628	Office conference with Larry Culp. Prepare outlines re 2882 Baers Court.	150	2.10	315.00
0629	Rev-review papers from Monti Banking Center.	150	0.20	30.00
0701	Prepare setup for client's responses to Respondent's Motion to Produce.	25	1.00	
0701	Prepare client's responses to Respondent's Interrogatories. Telephone conference with Atty Dechert; scheduled depositions. Phone conference with client. Conference with client at his home.	150	7.10	1065.00
0701	Further conference with client at his home	0	0.70	0.00
0702	Office conference with Client. Review letter from Dechert to Lavin. Fax to Lavin.	150	2.20	330.00
0703	Letter to opposing counsel with copy of filed agreement. Fax from Atty Dechert with W's 3rd set of interrogs and requests for production	150	0.60	90.00
0708	Prepare copies of (2) appraisals. Work on marshaling data for sending discovery and for presentation of evidence.	40	3.80	152.00
0708	Telephone conference with Raderstorf. Office conference with Larry Culp; returned appraisals; says his 2nd appraisal and Cindy Duff's did not include all property.	150	0.50	75.00
0709	Telephone conference with Mrs. C. Roth. Prepare SSA representative form for C. Roth.	150	0.40	60.00

Date	Description	Rate	Time	Amount
0710	Work on stipulation ideas for SSA records. Attempted calls to SSA. Letter to SSA. Receive-review W's 3rd set of interrogs and requests for production, medical releases. (Hard copy.) Letter to opposing counsel Dechert. Prepare-fax-mail notice of dep. Arrange court reporter. Fax notice of dep to court reporter (M. Jones). Phone and office conferences with staff at Raderstorf office. Office conference with Client and Roger Harmon; review things to do including bank statements-checks project, interrogatories, physician visit, SSA records. Work on answers to W's 2nd set of interrogs.	150	8.70	1305.00
0711	Receive-review W's notices of deposition. Pick up data from Acct Raderstorf. Fax to Raderstorf. Begin work on findings of fact and conclusions of law.	150	3.80	570.00
0712	Letter to SSA. Telephone conference with Client. Office conference with C. Roth. Office conference with Client, Roger Harmon. Telephone conference with opposing counsel Dechert. Telephone conference with Raderstorf. Rev data from Raderstorf.	150	2.80	420.00
0715	Review client's answers to 2nd set of interrogs. Conference with Larry Culp. Return 4/26/02 appraisals to L. Lavin. Prepare memos for trial testimony. File organization. Telephone conference with Del Principe.	150	3.00	450.00
0717	Telephone message from Atty Dechert. Telephone conference with Maryann Fleming; declines to examine client. Telephone conference with SSA-Lafayette; will order file from Kansas; here in 2 weeks; will call when it's ready; copy of decision may be at OHA-Indy. Telephone conference with OHA-Indy; they purge records every 2 years. Letter from Atty Dechert with Oxford Bank records. Do reply fax to Atty Dechert re depositions.	150	1.30	195.00
0718	Prepare copies of appraisals. Organization of new exhibits.	25	1.20	30.00
0718	Phone conference and office conference with L. Lavin; receive and discuss new appraisal. Receive new bill. Telephone conference with opposing counsel Dechert; agreement to do Al's dep first in exchange for receiving computer disks asap.	150	0.90	135.00
0719	Office conference with Client, Roger Harmon. Work on answers to W's 2nd set of interrogs.	150	6.40	960.00
0719	Additional uncharged work	0	3.00	0.00
0720	Continue work on interrog answers. Office conference with client.	150	3.80	570.00
0720	Type revisions to interrog answers from client conference. Prepare final draft for client signature.	25	1.10	27.50
0720	Additional uncharged work	0	2.90	0.00
0721	Prepare billing statement	0	2.40	0.00
0721	LT Relieva Therapy requesting patient records; fax copy to opposing counsel. Prepare revised notice of deposition; fax/mail to opposing counsel. Review LF Chase re $50K mortgage.	150	0.80	120.00

STATE OF INDIANA	)	WHITE CIRCUIT COURT
	)SS:	
COUNTY OF WHITE	)	2004 TERM
IN RE: THE MARRIAGE OF	)	
ALEXANDER R. PALA,	)	
Petitioner	)	
and	)	
	)	
ANNARE L. (PALA) LOUBSER	)	CAUSE NO.: 91C01-0108-DR-147
Respondent	)	

AFFIDAVIT OF ANNARE L. LOUBSER

1. On October 17th, 2002 first recess of above trial, on the third floor of White County Court house, outside courtroom door, Defendant Robert W. Thacker was observed engaging in *ex parte* communication with William Roth witness in opposition , who was still sworn in to testify after recess and husband of Candace Roth SSI Representative of Alexander R. Pala. Defendant Robert W. Thacker was dressed in his black judicial cloak.
2. Defendant Robert W. Thacker engaged in *ex parte* Communications with witness in opposition, David Diener, at recess at the above mentioned location in official dress, before he testified. On October 17th, 2002
3. Sondra Rumple Court Reporter in court room stated to Alexander Pala that her and her husband had dinner with Nancy and Joe Pala, Alexander R Pala's Brother and wife , just before trial. She commented that they have not been out for a long time till this week of trial. October 17th, 2002
4. On October 18th , 2002 Alexander R. Pala walked around in court room during plaintiff's professional witness testimony on business value and engaged in laughter with Candace Roth. In court room Alexander engaged in laughter with defendant Robert W. Thacker who was on the bench yet, as he walked across the courtroom floor saying" goodbye judgee wudgee I will see you around town"
5. Plaintiff observed Candace Roth SSI representative and relative of Alexander R. Pala engaging in *ex parte* communication with defendant Robert W. Thacker at the Tippecanoe Country Club on December 31st , 2002 Melissa Kitner documented this event with pictures she took. Defendant Robert W. Thacker used his knowledge of plaintiff socializing with friends he obtained outside of courtroom on this night, as fact for equal standard of living determination" both parties continue to socialize with friends"

Defendant Robert W. Thacker's behavior in and out of courtroom conveyed the impression of partiality ,of the judge, to Alexander R. Pala, while "under color of law".

I affirm under penalties of perjury that the above information is true to the best of my knowledge and the representations are true.

October 12. 2004

PRO PER ANNARE L. LOUBSER

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION AT LAFAYETTE

ANNARE L. LOUBSER	)	
Plaintiff,	)	
v.	)	CIVIL NO: 4: 04CV0075AS
UNITED STATES OF AMERICA et al	)	
Defendants,	)	

AFFIDAVIT OF SELF-AUTHENTICATION

1. That at the time of the trial of this cause on a October 17, 2002 I witnessed Judge Robert W. Thacker engaging in communications outside of his courtroom on the third floor of the White County Court House in his judicial robe. I saw Judge Robert W. Thacker shaking the hand of a witness, William Roth, for the petitioner, Alexander R. Pala, and then hugging another witness, David Diener, for the petitioner Alexander R. Pala.

2. On October 17th , 2002 Sondra Rumple, the court reporter for Judge Robert W. Thacker, in the courtroom, commented to Alexander R. Pala that her and her husband had dinner with Joe and Nancy Pala, and that they haven't been out with them in a long time until this week, which happened to be the same week of the Pala marriage dissolution. Joe Pala is the brother of Alexander R. Pala.

3. On October 18th , 2002, I observed Alexander R. Pala joking with Candace

Roth, walking around in the court room while testimony was taking place. Then, I witnessed at the conclusion of the trial Alexander R. Pala joking with Judge Robert W. Thacker saying "goodbye judgee wudgee, I will see you around town" before he left the court room.

4.On December 31, 2002 while at the Tippecanoe County Club, I witnessed Judge Robert W. Thacker engaging in conversation *with* Alexander R. Pala's personal Social Security representative Candice Roth. Candice Roth has been documented in this case as Mr. Pala's Social Security representative. I took pictures of Judge Robert W. Thacker and Candace Roth to document the Judge showing impartiality to the petitioner, Alexander R. Pala in a public setting.

5. Jill Roth and Dana Thacker graduated in 2002. Jill Roth and Dana Thacker also were the student editors of the yearbook their senior year. Jill Roth is the daughter of Candice and William Roth. Candice Roth is Al Pala's close friend and Social Security Representative. William Roth is also a close friend of Al Pala and was a witness on the behalf of Al Pala. Dana Thacker is the daughter of Judge Robert Thacker.

6. During the summer of June or July of 2004, I went to the White County Court House to look for the Balvich divorce file. Annare Loubser had told me her knowledge of the case and that it would be one to look into. The clerks, Paula Lance and Mary Reid, at the White County Court House were able to direct me to the books on the shelf to start looking through. I located the case number in the book and asked one of the clerks, Mary Reid, for the file. She could not locate the file, but she called Judge Thacker's court reporter, Sondra Rumple, and asked her if she had any knowledge of that

case and or file. We had to wait a few minutes for Sondra to call Mary Reid, the clerk back. Mary then relayed the message to me, that Soodra had made a mental note of this case and that it had been transferred to Rensselear's Court House. Mary wrote on a paper, "Transferred Whole File 12-1-86, Clerk of Jasper Circuit Court" and the phone number "219-866-4927". I then called the Jasper Clerk's and asked about the Balvich file. The clerk said that she could not find the file and asked that I call back in a couple of days, that it could be on microfiche. I waited a couple of days and then called Jasper's Clerk back. The clerk then proceeded to tell me that the case was over and that it had been destroyed and was not on microfiche. She stated that there was not any record of the case at the Jasper Court House. I told Annare Loubser about my experience at the White County Court House and what the Jasper Clerk had told me.

Further Affiant Sayeth Not.

Melissa R. Kilmer
Affiant's Signature

Melissa R. Kilmer
Affiant's Typed or Printed Name

seen in that chair, but - okay.

THE COURT: It's easier than him being over a ten foot putt. That's when he's really uncomfortable.

WITNESS: Yeah, and particularly when the Judge says, "We need this to tie."

MR. HOOVER: I have no more questions. Thank you, Mr. Diener.

THE COURT: Mr. Justice, cross examine.

MR. JUSTICE: Just a couple of short questions, Judge.

THE COURT: Okay.

CROSS EXAMINATION

BY MR. JUSTICE:

Q Uh, you testified you knew the parties. You knew Annare and you knew Al?

A Correct.

Q Both good people?

A Correct.

Q Hard working?

A Yes.

Q Intelligent?

A Yes.

Q Truthful?

A To the best of my knowledge, yes Sir.

Q Goes for both of them?

A That's correct.

Q And what - you described Al as a hard worker when he was

Q All right. Uh, when you - when you go to a bar and have beers, do you sit on a bar stool?
A Sure.
Q For how long at a time?
A Oh, it varies. Uh, and I have to get up and move around 'cause uh, I start gettin' - my back starts hurtin', so I move around and go socialize with somebody, come back, climb back up, or, a lot of times my buddies will just pick me up and sit me on the bar stool.
Q Okay. Well, how do you relate - do you relate, and if so, how, your ability to do that to your ability to hold full-time employment, or hold a job?
A There when I drink the beer and the booze, it's like a medication, it relaxes me. I don't think anybody will give me a job on drinking beer all day, unless I was a tester some place. A wine tester or something like that.

MR. HOOVER: Well, Your Honor, the rest of the - I'm at - I'm at a challenge here, the rest of the - most of the rest of my questioning of Mr. Pala has to do with financial data that we have not yet reviewed together, and I don't want to expose him to that part of his testimony at this point, and yet I -

THE COURT: So, you're talking about going through the exhibits that have already been admitted? The financial data, is that what you're talking about?

years and can reasonably be expected to earn in that range during her working life over the next 20 years. The parties were married for approximately seven years, which was a first marriage for each party. The parties have no children. The parties have no dependent persons to support. The parties lived well during the marriage, enjoying many vacations, and spent a great deal of time together and with friends, especially on the weekends. The parties enjoyed many summer and winter recreational activities. The parties enjoyed a social life. The parties enjoyed entertaining their friends and being entertained. The parties have many friends in the community. The Wife has a normal life expectancy of approximately 40 years. The Husband does not have a normal life expectancy due to dwarfism and the expected deterioration of his physical health. During the period of separation from August 6, 2001 to the date of the final hearing on October 18, 2002, the parties have had a difficult time adjusting. The parties continue to be angry toward each other. During this lengthy separation period of time, the Husband was able to continue to reside in the marital home, due to the terms of the Provisional Order which required the Wife to pay from her earnings the monthly household expenses including the mortgage, homeowner's insurance and real estate taxes, and to maintain the Husband's health insurance including dental, and his life insurance. During that period of time, the Wife had sufficient earnings to maintain the marital home for the Husband and also to provide a rented residence for herself. During that period of time, both parties continued to socialize with their friends. During that period of time, both parties also expended much time, effort, and expense in aggressively pursuing the representation of their interests in the dissolution. Based on the foregoing factors, the Court determines that it is fair, just and reasonable that a

FILED
JAN 23 2003
WHITE COUNTY CIRCUIT COURT

STATE OF INDIANA	)	IN THE WHITE CIRCUIT COURT
	) SS:	TO THE 2005 TERM
COUNTY OF WHITE	)	

IN RE: THE MARRIAGE OF	)	CAUSE NO. 91C01-0108-DR-[illegible]
ALEXANDER R. PALA,	)	
Petitioner	)	
And	)	
ANNARE L. (PALA)	)	
LOUBSER,	)	
Respondent	)	

FILED

APR 11 2005

CLERK WHITE CIRCUIT COURT

ORDER

Comes now the Respondent, Annare L. (Pala) Loubser, and files Motion 60 (B)(6)(8), and Memorandum of Law in Support of Motion, with a List of Exhibits and Exhibits, all reading in the following words and figures, to-wit: (H.I.).

The Court has reviewed the Motion. The Court finds the same is untimely, should have been raised prior to the appeal, or certainly should have been raised long before now. In addition, the Motion fails to satisfy Trial Rule 60 and fails on the merits.

The Motion for Relief from Judgment is **DENIED.**

ORDERED THIS 8TH DAY OF APRIL 2005.

Rex W. Kepner, Special Judge
White Circuit Court

Record of Judgments
and Designated Orders

cc: Court File
Honorable Rex W. Kepner
Dennis Hoover
Annare L. Loubser

choices and opportunities to go to work if they choose to. So, the laws have changed since 1999 to where there's greater opportunities for him to go to work if he wants to.

THE COURT: At Wal-Mart as your letter suggests.

WITNESS: Your Honor, I - I -

THE COURT: That's what the letter said. I just read it.

WITNESS: Yeah. They have a lot of different uh, at Heartland Employment Service I checked with them, and Judy Woods said that they work with employers in the area and they will give you at minimum wage and then also salary increases if they employ you.

THE COURT: Well, we're done with the issue of uh, you know, him working or not working. The facts are as they were on whatever the day the Final Hearing was concluded and that's, you know, that's all there is to it.

WITNESS: Okay.

THE COURT: All you can about, I guess, is what was in your mind when you chose to do these things, and you said you were not really in your right mind. So, you know, there's all kinds of conflicting things here, what I call non secquiturs. You can't on the one hand argue that you didn't know what you were doing and then on the other hand try to explain it. It just doesn't work in divorce work and it doesn't work in criminal work to say that "Well, one of

his disability during the marriage of the parties. The Husband's ability to support himself on his social security benefits even combined with a small amount of part-time earnings, would probably require the Husband to sell his present residence, and move to a more affordable residence. On social security alone, the Husband would be required to drastically change his living expenses and socializing. It is also probable that the Husband's ability to provide for his own healthcare would be diminished. The Wife, on the other hand, is in good health. She has a college education and practices her trade as a healthcare professional as a physical therapist. She has the income and resources to maintain herself to the standard of living that the parties enjoyed. The Husband does not. Clearly an award of maintenance to be paid by the Wife to the Husband is supported by the evidence and the law. Based upon the factors discussed herein, including most importantly the Wife's earnings and earning ability, and the Husband's age, disability, and poor general health, and also the manner of the division of property and debts, the Court FINDS and ORDERS that the Wife shall pay maintenance to the Husband in the sum of $1,200.00 per month during the period of the Husband's incapacity subject to review and to further Order of the Court. Such maintenance payments shall begin on February 1, 2003 and the 1st day of each month thereafter until further Order of the Court. Such maintenance award may be reviewed by the Court upon application by either party.

FILED
JAN 23 2003
WHITE COUNTY CIRCUIT COURT

15. Based upon the evidence presented, upon the Wife's application, the Court FINDS and ORDERS that a Protective Order should and shall be and hereby is entered in favor of the Wife and against the Husband for a period of one (1) year from the date of this Decree. The Court finds that a factual basis has been established and good

disability beginning on June 13, 1996. The Court finds that the Husband had been employed full-time as a regular member of the work force for more than 25 years immediately prior to his filing for social security disability due to the deterioration of his physical health. The Court finds that the Husband's physical disability is consistent with the Husband's diagnosis as an achondroplastic dwarf. The Court finds that the Husband has significant leg and back problems which cause severe pain and make it impossible for the Husband to stand or sit or perform physical tasks for any extended length of time, and which cause the Husband to be unable to lift, carry or climb in the ordinary course of employment. The Court believes that the Husband could perform part-time work involving light lifting tasks for a few hours per day which type of employment would in no way be sufficient for the Husband to make a living, and which could provide only a small amount of earnings per week in the range of up to $75.00 per week. The Court finds that the Husband is physically incapacitated based upon the medical evidence submitted to the Court, based upon the Court's own observations of the Husband in Court, and based upon the weight of the testimony of the parties and witnesses. After the Court has found that the Husband is physically incapacitated to the extent that his ability to support himself is materially affected, the Court may find that maintenance for the Husband is necessary during the period of incapacity. For the Court to determine if an award of maintenance for the Husband is appropriate in this case, the Court must consider the property and debts of the parties to be divided, the ability of the parties to earn a living and support themselves after the dissolution of the marriage, the future reasonable health prospects of the parties, the length of the marriage, the general life style of the parties during the marriage, and the reasonable

FILED
JAN 23 2003
WHITE COUNTY CIRCUIT COURT

learned at a social gathering with his friend Candace Roth and also discussing the division of assets with the accountant on the golf course and most telling of all is his determination that Pala is incapacitated. The testimony of the doctor that examined Pala was **NOT** submitted into evidence till April 23, 2003 and the actual decision was January 23, 2003, this case was decided outside of the court room as Loubser stated earlier that the court room was just a show. That is why Pala was allowed to walk around and engage in laughter with his relative and SSA Representative and close personal friend Candace Roth and she is close personal friends with Judge Thacker and Loubser is from South African National Origin therefore the Judge allowed it, the question is how much more egregious must it be? How could Loubser possibly have had due process if decisions were made on evidence never submitted, but the judge made it with his friends at the country Club while Candace Roth was rubbing his belly. The United States District Court for the District of Columbia, "The Court of Appeals held that the excessive injection of the trial judge into the examination of witnesses, and judge's numerous comments to defense counsel, indicating at time hostility, though under provocation, demonstrated a bias and lack of impartiality which may well have influenced the jury and required reversal of the conviction. " *Peckham v. U.S.* 210 F.2d 693, 93 U.S.App.D.C. 136 (C.A.D.C. 1954). Thacker was clearly angry at Loubser when he said that He refused to include this evidence, it was not conforming to their fraudulent scheme to "fix" *DuBose v. Kelly* 187 F.3d 999 (C.A.8 (Minn.),1999) the state case. "that a judge has acted out of personal motivation and has used his judicial office as an offensive weapon to vindicate personal objectives", *Harper v. Merckle* 638 F.2d 848 (C.A.Fla., 1981) the United States Supreme Court held that" Violation of statute which requires judge to disqualify himself in any proceeding in which his impartiality might reasonably be questioned may warrant relief from final judgment provided motion is made within a reasonable time."

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